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ZIMBABWE: AN OPPORTUNITY LOST

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In November 2017, a series of dramatic events in the Zimbabwean capital of Harare culminated in the toppling of longtime dictator Robert Mugabe, then 93. Mugabe had been Zimbabwe's chief executive since 1980, serving as prime minister and then as president. Behind his downfall was unprecedented action by the military—a coup in all but name. On November 14 and 15, units of the Zimbabwe Defense Forces (ZDF) moved into strategic positions in Harare, occupying the premises of the state broadcaster and putting Mugabe himself under house arrest. Mugabe was ousted from the leadership of the ruling Zimbabwe African National Union–Patriotic Front (ZANU-PF) on November 19, and resigned the presidency in the middle of formal impeachment proceedings in the legislature two days later.[1]

Yet amid this unfolding drama, there were notes of continuity. Stepping into Mugabe's shoes was former vice-president Emmerson Mnangagwa, a ZANU-PF insider who had long been seen as the nonagenarian president's possible successor. Mnangagwa had headed a succession of ministries in Mugabe's administrations, most recently including defense and justice, and had served a stint as parliamentary speaker. He was tapped as the president's number two in 2014. By 2017 there were two factions vying to succeed Mugabe, one headed by Mnangagwa and another that rallied around Mugabe's young and ambitious wife, Grace (then 52). Mnangagwa's sacking as vice-president shortly before the coup had placed Grace Mugabe's faction in the ascendancy, a development that inflamed Robert Mugabe's relations with the ZDF and helped to prompt the military intervention.[2]

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However much this sequence of events might resemble a coup, those who carried it out were careful to avoid this term, claiming instead to be "restoring a legacy." On the morning of November 15, then–Major-General S.B. Moyo, appearing on television to clarify the "situation in our country," expressly declared that "this is not a military takeover of government" and reassured viewers that Mugabe (still described as "His Excellency") and his family were safe.[3] This was clearly in part an effort to avoid condemnation from regional and international peers. Two regional groupings of which Zimbabwe is a member—the Southern African Development Community (SADC) and the African Union (AU)—both take a strict stand against unconstitutional changes in government, including military coups. And indeed, the coup leaders' attempts at circumlocution turned out to have some resonance among international observers. As the *Financial Times* aptly summarized, "Though it often looked like a coup, talked like a coup and, frankly, quacked like a coup, the international community—long sick of Mr Mugabe—played along with the idea that it was, in fact, a more gentle 'military-assisted transition.' Within days, analysts had adopted the acronym MAT."[4]

Nine months later, Zimbabweans headed to the polls for the country's first general election in which Mugabe would not be a candidate. On top of this, Morgan Tsvangirai of the Movement for Democratic Change (MDC), Mugabe's major rival for the previous two decades, had passed away in February 2018. Thus the country's two most dominant political figures were no longer on the ballot for the 30 July 2018 vote.

Instead, it was their successors who battled for the presidency. Mugabe had been replaced by Mnangagwa, and Tsvangirai by Nelson Chamisa—a charismatic young MDC politician with credentials in law and theology. There were 21 other presidential contenders, including Thokozani Khupe, a second would-be successor to Tsvangirai. With only a small splinter faction of MDC backing Khupe, however, the real contest was between Mnangagwa and Chamisa.

The race between these two candidates proved tighter than Mnangagwa likely expected. Afrobarometer opinion polls showed Mnangagwa in the lead, but with a strong surge by Chamisa in the final weeks of the campaign. After the coup, Mnangagwa may have felt that he had little to fear from holding a vote because the opposition seemed to be in disarray. Tsvangirai was terminally ill, having been diagnosed with colon cancer in 2016, and although a loose coalition had been forming around him, many voters felt that the opposition camp needed to unite more firmly in order to stand a chance against ZANU-PF. Further divisions sprang up following Tsvangirai's untimely death in February 2018: In the absence of any named successor, all three MDC deputy presidents lay a claim to the party presidency, leading to a succession fight in which Chamisa emerged as the winner. One of his rivals ultimately accepted this outcome and stayed with the MDC majority under

Chamisa's leadership, but Khupe, the third contender, left with a small group of followers.

Legal fights over the use of the party's name ensued. A High Court judge ruled that this dispute was not urgent, even though the election was only a few months away, and by the time the Supreme Court overturned this decision no resolution could be reached in time for the vote. Consequently, the MDC remained divided going into the election, although Chamisa clearly had the bulk of the members' support—he won more than two-million votes nationwide, compared to fewer than fifty-thousand for Khupe. Nevertheless, internal division caused the opposition to lose some parliamentary seats in areas where it could have beaten ZANU-PF had it not fielded multiple candidates.

The 2018 Election

At the time of the campaign, Chamisa was 40 years old—the minimum age for a presidential contender under Zimbabwe's constitution. He had been a leader of the opposition's youth branch earlier in his career, and held a ministerial post in a national-unity cabinet with Tsvangirai as premier from 2009 to 2013.[5] Despite his youth, Chamisa was already a veteran of opposition politics. He had always been considered a future leader, although there were others ahead of him in the MDC pecking order. Yet Chamisa, showing his ability to read the political situation, had remained loyal to founding leader Tsvangirai when others grew disgruntled and left the party. Even when he believed Tsvangirai to be behind his defeat in a 2014 contest for the post of secretary-general, Chamisa did not walk away. Two years later, Tsvangirai selected Chamisa as one of the party's vice-presidents.

A skilled orator, Chamisa managed to build a large following. Using the slogan "Generational Consensus" (later "Inter-Generational Consensus"), he was able to rally people from all age groups and in both rural and urban areas. Chamisa's most important promise, as with Tsvangirai before him, was to bring about a change in governance and an economic revival. He based his campaign on a modernization plan that emphasized development and the adoption of new technology. His manifesto, which he called SMART (Sustainable and Modernisation Agenda for Real Transformation), had a futuristic feel that drew many young and urban voters. Although Chamisa's campaign was run on a shoestring budget compared to that of his rival—who had access to state resources—his rallies across the country were extremely well organized and well attended. In a bid to convince the international community that it represented change, the post-coup administration had opened up political space, enabling opposition supporters to rally more freely around their new leader.

The 75-year-old Mnangagwa, meanwhile, ran on interlinked promises of economic renewal and international reintegration for Zimbabwe. Yet

the ZANU-PF candidate, popularly known as "the crocodile," brought with him the baggage of a hard-line reputation. Perhaps most troublingly, Mnangagwa was Mugabe's state-security minister in the 1980s, during a period in which thousands perished in mass killings perpetrated by a North Korean–trained army unit in the southern and western Matabeleland region (an operation called Gukurahundi). Mnangagwa was also implicated in election violence in 2008, when the military intervened to "campaign" for Mugabe after the latter lost the first round of presidential elections to Tsvangirai. During Mugabe's lengthy rule, Mnangagwa came to be seen as the dictator's chief and most trusted enforcer. After the coup he sought to strike a new tone, in particular touting his plans to bring foreign investors to Zimbabwe.[6] Hoping to shed his image as a hard man, he often described himself in interviews as being "as soft as wool."

While Mugabe has departed, the system that he created and presided over for 37 years remains intact and in control.

Under Zimbabwe's system of "harmonized elections," ballotings at the local, parliamentary, and presidential levels were held simultaneously. ZANU-PF emerged as the overall winner. The long-dominant party not only took the presidency, but also amassed a two-thirds majority in the 270-seat National Assembly, the lower house of Parliament: ZANU-PF now holds 180 of this body's 270 seats, while the Movement for Democratic Change Alliance, or MDC-A (made up of Chamisa's majority faction of the MDC together with several smaller parties), controls 87. ZANU-PF also won 36 of 60 Senate seats, as compared to 23 for MDC-A. In the presidential race, Mnangagwa claimed 50.8 percent of the national vote, while Chamisa came in a close second with 44.3 percent. This means that Mnangagwa only narrowly avoided a runoff election, required by law if no candidate passes a 50 percent threshold.

The election's outcome reflected Zimbabwe's persistent rural-urban divide. ZANU-PF carried the majority of rural constituencies, while the MDC Alliance won in the major cities (including most notably Harare, with about 1.5 million of Zimbabwe's roughly 16 million people, and southwestern Bulawayo, with close to 700,000). In local elections, the MDC Alliance won control over 28 of Zimbabwe's 32 urban councils.

Yet factors other than the preferences of Zimbabwean voters likely helped to determine the final count. Claims of vote-rigging and the abuse of state resources by ZANU-PF dogged the election, leading to a court challenge of the results by the opposition as well as criticism from international observers. Following the dismissal of the opposition's challenge by Zimbabwe's Constitutional Court, a joint observer mission of the Washington-based International Republican Institute (IRI) and National Democratic Institute (NDI) found that "Zimbabwe has not yet

demonstrated that it has established a tolerant, democratic culture that enables the conduct of elections in which parties are treated equitably and citizens can cast their vote freely."[7]

One feature that drew initial praise was the overall peaceful conduct of the campaign—a seemingly significant achievement in a country where widespread, sometimes deadly state-sponsored violence had marred previous elections. Yet the situation changed rapidly in the wake of the vote, when progovernment forces began violently attacking real or perceived opposition supporters. These incidents, and above all the fatal shootings of at least six protesters in Harare on August 1, seriously undermined the legitimacy of Mnangagwa's regime at home and abroad.

The course of the recent elections has made it clear that, even in the post-Mugabe era, the efforts of Zimbabwe's authorities to establish democratic legitimacy continue to find little success. Consequently, Zimbabwe's regime is still shunned by the international community, with major international observation missions adopting negative reports. The 2018 election failed to meet the standards of a free, fair, and credible process, marking a lost opportunity for Zimbabwe to make a break with its autocratic past. There is one inescapable conclusion: While Mugabe may have departed, the system that he created and presided over for 37 years remains intact and in control.

An Enduring Competitive Authoritarianism

Under Mugabe, Zimbabwe's regime was one of many governments in which formal democratic structures were present, yet substantive movement toward democracy was absent. In 2011, Adrienne LeBas placed Zimbabwe in the category of regimes that are semiauthoritarian, or what Levitsky and Way describe as "competitive authoritarian."[8] The regime that has governed Zimbabwe since independence indeed fits Levitsky and Way's classic definition of competitive authoritarianism: Despite regular elections, abuses ranging from the misuse of state resources to harassment of the opposition to instances of violence and electoral manipulation "create an uneven playing field between government and opposition."[9]

In Zimbabwe, while there has been a façade of competition and, at least since 2000, a politically active opposition, violations of this kind have made the electoral process a sham. Elections have been held faithfully every five years, but there have been accusations of rigging and manipulation on each occasion—and ZANU-PF has indeed frequently engaged in these practices.[10] The ruling party has exploited state resources in election campaigns and has ensured that state-media coverage is heavily biased in its favor. Institutions including the electoral authority, police, and judiciary have been compromised and routinely serve ZANU-PF's interests. Police and prosecutors have applied the law se-

lectively, regularly targeting opposition politicians and supporters. Most egregiously, opposition candidates and their supporters have been arrested, beaten, tortured, and forced from their homes in state-sponsored election violence. When ZANU-PF has faced setbacks at the polls, such violence has occurred on a massive scale. A campaign called Operation Makavhotera Papi (Who Did You Vote For?) initiated between the two rounds of the 2008 presidential vote—in the first of which Tsvangirai won a plurality—ended with hundreds killed and hundreds of thousands displaced.[11]

The quality of Zimbabwe's electoral process has been so poor that it has regularly been condemned by both the opposition and the international community. International concerns about state-sponsored abuses surrounding Zimbabwean elections in 2000 and 2002, as well as violations of property rights committed in the course of the government's land-reform program, led to a rupture in relations between the Mugabe regime and the West. After the widely discredited 2002 presidential vote—which was preceded by the passage of highly restrictive state-security legislation and a wave of deadly violence against MDC supporters—the regime banned Western monitors from observing Zimbabwean elections.[12] Western media were also barred from the country, leaving Zimbabwe a pariah state.

In response to these abuses, the United States and European Union imposed targeted economic sanctions upon influential members of the Mugabe regime and related enterprises. In the 2001 Zimbabwe Democracy and Economic Recovery Act (ZIDERA), the U.S. Congress expressed its resolve to "support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law." Further isolating the country, Mugabe quit the Commonwealth in a fit of pique following criticism of Zimbabwe's elections and its consequent suspension in 2002.

Does Mugabe's removal signal the advent of a new era? After well over a decade of blocked access, international observers were invited in to monitor the 2018 contest. These observers noted that Mnangagwa, to his credit, had opened up sufficient political space to allow opposition parties to campaign more freely and widely than had been possible during the Mugabe era. Yet in the end, Zimbabwe's 2018 electoral contest followed a course entirely consistent with what one might expect to see in a competitive authoritarian regime. The bulk of the repressive system remained intact, ensuring a continuing imbalance between ZANU-PF and its opponents. The long-dominant party relied as usual on state machinery. It also had more funding and was able to buy the majority of billboards, advertising space, and vehicles for use by campaigners. Moreover, it had the state media on its side. All these advantages were noted by election observers.

In the vote's immediate aftermath, Chamisa and his party challenged

the results before the Constitutional Court. Their submission cited a number of problems with the electoral process, including bias on the part of the Zimbabwe Electoral Commission (ZEC) and state media; improper efforts by traditional leaders (formally required to eschew partisanship) to secure votes for ZANU-PF; and concerns surrounding the release of and alleged anomalies in the voter roll. Chamisa's complaint also noted various irregularities that called into question the accuracy of the official results: These vote totals were changed at least twice by ZEC after what was to have been the final announcement, raising doubts about their credibility. In addition, there were alleged discrepancies between the presidential and parliamentary races in terms of the total number of ballots cast, which suggests that ballot boxes may have been stuffed to add votes for the favored presidential candidate. The Court unanimously dismissed these challenges, ruling in favor of Mnangagwa and ZEC. This has not, however, closed the book on the disputed vote: The opposition has continued to maintain that the election was rigged, making the new government illegitimate.

International observers also sharply criticized the conduct of the elections. Citing issues ranging from "inordinate media bias," "intimidation of voters," and "politicization of food aid" to problems with voter registration, the NDI-IRI observer mission concluded that "the pre-election process did not meet the mark."[13] An EU observation mission similarly held that, while the elections had been "competitive" and political freedoms were on the whole respected, the vote was marred by "the misuse of state resources, instances of coercion and intimidation, partisan behaviour by traditional leaders and overt bias in state media, all in favour of the ruling party." As a result, "a truly level playing field was not achieved." The EU mission also expressed concern over ZEC's transparency and independence.[14] In short, while there were some improvements, the election did little to move Zimbabwe away from competitive authoritarianism.

In the Shadow of the Coup

Zimbabwe's ruling party was not the only player with an interest in Mnangagwa's electoral success. The 2018 campaign took place in the shadow of the military coup that put an end to Robert Mugabe's rule. Behind the political contest, then, was the ubiquitous presence of the armed forces.

The military had always been a significant factor in Zimbabwean politics. Its influence dates back as far as Zimbabwe's war of liberation from white-minority rule in the 1970s, although it has grown particularly pronounced since 2000. In 2008, Michael Bratton and Eldred Masunungure argued in these pages that Mugabe's regime had come to represent "a militarized form of electoral authoritarianism": Since the

turn of the millennium, when the MDC was formed, Zimbabwe's armed forces had helped to offset new challenges to ZANU-PF by applying violence, intimidation, and other forms of coercion. The military played a crucial role, for instance, in the bloody campaign that helped Mugabe to retain power in 2008.[15]

With the outcome seemingly a foregone conclusion, what then was the point of holding elections? A scramble by the new government to establish its legitimacy was likely the most crucial factor.

Now it is Mugabe's successor who owes his position to the armed forces. The November 2017 coup brought the military, which had previously exerted most of its influence from behind the scenes, to the forefront of politics. Hours before the coup, the armed forces declared themselves to be "stockholders" in the nation, with a clear role in government. Later, the coupmakers succeeded in getting formal legal cover when their actions were ruled constitutional by a High Court judge with a military background (as a former judge advocate).

The political justification offered for the coup implied that the military is a separate arm of the state. Rather than being subject to control by the executive, the armed forces presented themselves as an institution able to hold the executive to account, just like Parliament or the judiciary. This enhanced military role runs counter to the traditional understanding of separation of powers in a liberal democracy and bodes poorly for Zimbabwe's democratic prospects.

Emblematic of the military's heightened visibility was a change in presidential-security arrangements: Previously, a policeman always stood behind Mugabe as his close-protection officer. Now it is a uniformed soldier of the presidential guard who stands behind Mnangagwa, a less-than-subtle a statement about the power behind the president. And the military enjoys more than just a symbolic presence in Zimbabwe's halls of government: After the coup, three former top military commanders received positions in the administration. Retired general Constantino Chiwenga, who was head of the military at the time of the November takeover, became a co–vice-president, while the man who announced the coup to the world, S.B. Moyo (now a retired lieutenant-general), assumed the post of foreign minister. A former air force chief is now minister of agriculture.

All this meant that the military had a vested interest in the new administration's success at the polls. Military commanders had made various remarks showing a pro–ZANU-PF bias, and calls by the opposition and international observers for the armed forces to renounce these statements went unheeded. In light of the military's involvement, it was difficult to see how Mnangagwa could lose the election: His powerful

backers would not be eager to yield the power that they had seized from Mugabe less than a year earlier.

With the outcome seemingly a foregone conclusion, what then was the point of holding elections? Although there are a number of possible reasons, a scramble by the new government to establish its legitimacy was likely the most crucial factor.

An Elusive Democratic Legitimacy

Any political authority aspires to command legitimacy—meaning that people accept its exercise of power as morally justified, and therefore respect its monopoly over the making and enforcement of laws.[16] If people view a political order as legitimate, they will be prepared to obey its rules and policies without any need for coercion. Legitimacy can be established by different means. In particular, political scientists distinguish between input legitimacy, also called procedural legitimacy (which stems from a political authority's compliance with established procedures for gaining power) and output legitimacy (which depends on that authority's performance once in office).

Input legitimacy as such does not require democracy: Even hereditary monarchs and dictators can enjoy such legitimacy, so long as they assume or hold on to power in accordance with the rules of the existing system. Within a system that bills itself as a democracy, however, procedural legitimacy depends crucially on compliance with democratic rules and norms where elections are concerned.

Scholars have debated how important this particular form of legitimation really is. Bo Rothstein, for instance, has contended that even in established democracies, legitimacy ultimately rests on "the output side of the political system" (in other words, on government impartiality and performance).[17] Yet the case that electoral integrity is critical for establishing democratic legitimacy—as powerfully laid out by Pippa Norris—is more persuasive.[18] A lack of this legitimacy undermines leaders' authority to make, apply, and enforce laws. Faced with resistance from citizens, governments with legitimacy deficits often resort to coercive measures that result in human-rights violations. There are also international ramifications: Other nations may choose to break off relations, cut development aid, or impose sanctions.

In Zimbabwe, the gap between formal democratic standards and actual electoral practices has presented ZANU-PF with recurring problems in terms of input legitimacy. Both Zimbabwe's constitution and its electoral law invoke liberal-democratic principles, which nominally form the basis for the country's electoral system. On the regional level, the AU and the SADC also both have standards for the conduct of elections. In practice, however, Zimbabwe's elections have always been discredited and rejected by the opposition and the international community.

As Pippa Norris wrote, a contest is legitimate when winners and losers alike acknowledge the rules and recognize the outcome. For the losers to do so, they must believe there is a degree of procedural fairness to the system that gives them a chance of winning in future contests. This has not been the case in Zimbabwe, and the failure to deliver free, fair, and credible elections has undercut the regime's input legitimacy in the eyes of both domestic and international audiences.

Mnangagwa's Way

When Mnangagwa took over from Mugabe, holding elections appeared key not only to securing acceptance of the new president, but also to resolving the problems that this persistent legitimacy deficit had caused. First, there was a legal obligation to hold a vote. Mugabe was approaching the end of his term at the time of his ouster, and elections were due by mid-August 2018. Since Mnangagwa had in theory been installed only to serve out the remainder of the fallen dictator's term, Zimbabwe's constitution mandated that elections be held within nine months of the coup.

Second, Mnangagwa needed a mandate from the people in order to avoid remaining beholden to the military. This was one aspect of his concern with establishing democratic legitimacy. Third and finally, he recognized his government's need for acceptance by the international community. While the world had reluctantly condoned the coup, the new administration was sitting on uncertain ground. It had to make a clean break with the Mugabe regime, which it could do only by holding and winning a free, fair, and credible election—or at least by convincing observers that it had done so.

Mnangagwa adopted a policy of international reengagement soon after the November coup. To counter existing negative perceptions of Zimbabwe, he tried to present himself as a reformer and to put forward a new post-Mugabe image of a country ready to repair its broken bridges. With China, Russia, and his African peers already backing him, Mnangagwa's principal target for reengagement was the West—a particularly important goal given the U.S. and EU sanctions that had remained in place since the early 2000s. Winning approval of the elections from local and international observers would have significantly bolstered Mnangagwa's claim to democratic legitimacy. His quest for such an endorsement, however, came up short.

Although Mnangagwa may have wanted a clean popular mandate, he was unable to exclude the newly prominent military from the electoral process. On August 1, soldiers were deployed on the streets of Harare, ostensibly to assist the police in quelling opposition protests. This had catastrophic results, with at least six people killed and many more injured as these troops—using live ammunition—opened fire on civilians.[19] Over the next few days, soldiers were also deployed in residential

areas, where they allegedly beat and harassed locals believed to be opposition supporters. After the 2008 elections, Bratton and Masunungure warned that "a militarized ZANU-PF regime will always be tempted to rule by the gun, as evidenced by the persistence of violence against the opposition, violence which spread to the impoverished townships around Harare even after Mugabe's 'victory' in the runoff." ZANU-PF's "victory" in 2018 was followed by a reprise of precisely this scenario.[20]

By stifling possible resistance from the opposition in light of its claims that the election had been rigged, the military may have helped Mnangagwa to retain power. Yet its intervention came at a cost for his efforts to win international acceptance. Faced with killings of unarmed civilians by soldiers, no fewer than nine international observation missions collectively condemned the authorities' "excessive use of force."[21] The postelection violence drew negative coverage in the international media, and earlier assessments of the election as a peaceful contest now rang hollow. The international community, including countries such as Britain that had taken a more friendly approach prior to the election, was repulsed by the killings and subsequent harassment of opposition supporters.

Realizing the damage that the military crackdown had done to his legitimacy-building project, Mnangagwa appointed an independent commission of inquiry to investigate the election violence. Yet this commission, which includes both local and international members, has drawn criticism on a number of grounds. The local members of the commission were compromised: One was a well-known supporter of ZANU-PF, another was a presidential candidate in the 2018 election, and the third held various positions within the establishment. Two of these members had also publicly expressed partisan views on the matter they were supposed to investigate. Of the international members, the commission chairman was a former South African president whose party has ties with ZANU-PF dating back to the two countries' respective liberation struggles. A second international participant is a retired general from Tanzania with close ties to Zimbabwe's military establishment.

Another criticism centered on the commission's limited and biased terms of reference, which some felt pointed to a witch hunt against opposition leaders. In particular, critics noted that the terms did not specifically mandate an investigation into the military chain of command behind the deployment of soldiers and ultimately the shooting of civilians. Moreover, the commission's terms of reference were restricted to the events of August 1, even though there had been allegations of harassment and violence against opposition supporters extending well beyond this date.

In addition to these structural problems, there is concern that, while Mnangagwa has promised an open and transparent process, ordinary people may not be prepared to testify against the state without proper witness protection—especially given that the military is implicated. Finally,

critics ask whether the report of this commission will be made public. The documents produced by previous commissions of this kind, set up to investigate the Gukurahundi atrocities, have been kept secret, and the Mnangagwa administration has resisted a clamor for their release. Taken together, these concerns suggest that the commission is unlikely to be enough to repair the legitimacy deficit produced by the August 1 killings.

The Legal Challenge

The postelection contestation over Mnangagwa's legitimacy also played out in Zimbabwe's court system. On this front, defeating Chamisa's challenge to the election results and securing a favorable court opinion may have given the Mnangagwa administration the trappings of legal legitimacy. It did not, however, reverse the damage already done to the administration's political legitimacy. In its ruling, the Court officially confirmed Mnangagwa as the duly elected president of Zimbabwe, paving the way for his formal inauguration. Yet the court ruling failed to solve Mnangagwa's legitimacy problems.

Several technical criticisms were leveled against the judicial ruling, but perhaps the most significant charge centered on the lack of judicial independence. Since the judiciary plays a key role in resolving election disputes, interpreting electoral laws, and protecting political rights, a compromised judiciary in turn undermines the credibility of the electoral process. In Zimbabwe, infringements on judicial independence have long been a serious concern.[22] This issue dates back to the early 2000s, when the Mugabe regime embarked on a radical process of land reform with major implications for private-property rights. The regime knew that it needed judicial support for this endeavor, and it viewed the courts as hostile to its ideology and policy. The result was a wholesale turnover in key judicial posts, beginning with the forced early retirement of Chief Justice Anthony Gubbay in 2001. Within a year, the Supreme Court bench had been radically transformed. The High Court was also fundamentally changed as Mugabe packed it with pliable judges.[23]

When Zimbabwe embarked on the process of drafting a new constitution in 2009, the opposition tried to use this opportunity to make changes to the judiciary (as had been done during Kenya's 2008–10 constitutional reforms). The Zimbabwean opposition not only failed to achieve this, but also revealed its hand to the judiciary. From that time, it became clear that ZANU-PF's opponents would struggle if they brought political matters before the courts. Tsvangirai's awareness that it would be impossible to get a fair hearing from Zimbabwe's judges led him to withdraw a legal challenge to the results of the 2013 presidential election (which took place soon after the conclusion of the constitution-making process). Pursuing the challenge would have been a hopeless

exercise, in which a partisan court would merely have offered further confirmation of Mugabe's legal legitimacy.[24]

After the 2018 elections, the opposition faced a similar dilemma. On the one hand, the MDC knew that it was unlikely to get a fair hearing before a politically compromised judiciary. The outcome was predictable: A legal challenge would only provide an opportunity for the courts to give their stamp of approval to Mnangagwa's victory. In this sense, by working through the court system, the opposition was taking a big risk.

On the other hand, a legal challenge was the only prescribed route for registering a grievance with the election process. Everyone, including election observers and the international community, exhorted the opposition to follow the established legal procedures. The MDC was therefore constrained: Taking any other action, including protests, would have been criticized as irresponsible. Particularly after the events of August 1, any effort to contest the results outside the court system was discouraged for fear of outbreaks of violence—for which the opposition would have been blamed.

The Zimbabwean case underscores more generally the difficulties of pursuing such legal challenges in the wake of a major election. The burden of proof lies on the challenger, who must gather all the necessary evidence, prepare the petition, file it, and serve it within a very limited period (seven days). For its part, the court has the onerous task of dealing with a politically sensitive case whose outcome will affect millions. It is not easy for judges to overturn a result that has already been declared. It is hardly surprising, therefore, that legal challenges in such matters are rarely successful. Among African countries, Ghana, Kenya, and Zambia have all seen challenges of this kind in recent years, and only once (in Kenya in 2017) has the challenger been successful in getting an election result overturned.

The Mnangagwa administration hoped that an election would be an easy route to democratic legitimacy. Yet it underestimated the challenge posed by Chamisa and the MDC Alliance. While ZANU-PF won the parliamentary vote comfortably, the presidential election was tighter—and the methods by which the ruling party and its military backers secured a first-round victory also undermined the elections as an instrument of legitimation.

There was some opening up of political space, which allowed the opposition to campaign freely. Observers acknowledged that the contest had been peaceful and competitive, at least until polling day. The events of August 1, however, changed this situation drastically. In the end, the electoral process followed the same path as in previous elections: The opposition rejected the outcome. There was no unequivocal endorsement by international election observers, who criticized an uneven playing field. In short, the election did nothing to challenge either the perception

or the reality that Zimbabwe is a competitive authoritarian regime. The democratic legitimacy sought by its authorities remains elusive.

The events surrounding the July 2018 vote show that Bratton and Masunungure were right to predict in 2008 that Zimbabwe's newly militarized authoritarian regime was "likely to outlast the political career of any particular dictator."[25] Despite the end of Mugabe's political career, the system that he established and its current militarized incarnation still shape Zimbabwe's politics. The military's influence is likely to remain a roadblock on the path to democratic legitimacy and international acceptance well into the future.

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24. The author of this article was a member of Tsvangirai's advisory team.

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