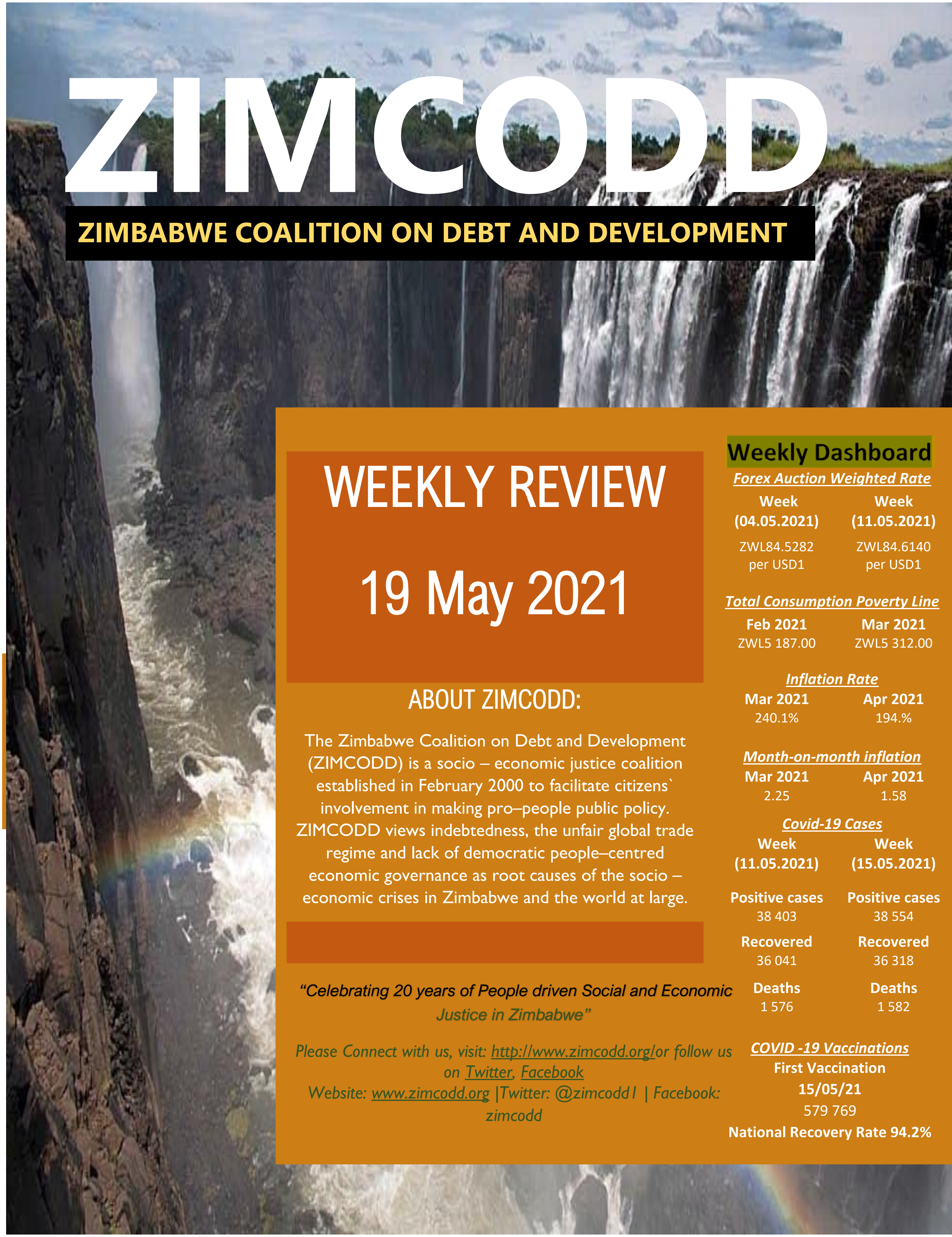

ZIMCODD

ZIMBABWE COALITION ON DEBT AND DEVELOPMENT

WEEKLY REVIEW

19 May 2021

ABOUT ZIMCODD:

The Zimbabwe Coalition on Debt and Development (ZIMCODD) is a socio – economic justice coalition established in February 2000 to facilitate citizens` involvement in making pro–people public policy. ZIMCODD views indebtedness, the unfair global trade regime and lack of democratic people–centred economic governance as root causes of the socio – economic crises in Zimbabwe and the world at large.

"Celebrating 20 years of People driven Social and Economic Justice in Zimbabwe"

Please Connect with us, visit: http://www.zimcodd.org/ or follow us on Twitter, Facebook
Website: www.zimcodd.org |Twitter: @zimcodd1 | Facebook: zimcodd

Weekly Dashboard

Forex Auction Weighted Rate

Week (04.05.2021)	Week (11.05.2021)
ZWL84.5282 per USD1	ZWL84.6140 per USD1

Total Consumption Poverty Line

Feb 2021	Mar 2021
ZWL5 187.00	ZWL5 312.00

Inflation Rate

Mar 2021	Apr 2021
240.1%	194.%

Month-on-month inflation

Mar 2021	Apr 2021
2.25	1.58

Covid-19 Cases

Week (11.05.2021)	Week (15.05.2021)
Positive cases 38 403	**Positive cases** 38 554
Recovered 36 041	**Recovered** 36 318
Deaths 1 576	**Deaths** 1 582

COVID -19 Vaccinations

First Vaccination
15/05/21
579 769
National Recovery Rate 94.2%

Contents

1. Notable Issues This Week

What does the High Court`s Decision on the Chief Justice's tenure mean?
On Saturday 15th May 2021, the High Court of Zimbabwe issued a landmark ruling in which it declared that Chief Justice Luke Malaba had ceased to hold office by operation of law. An attempt to extend his tenure by another 5 years was made through topical Constitutional amendments. Before the recent amendments were assented to by the President, the Constitution held that the age of retirement for judges was 70 years, the amendment changed that by extending the retirement age to 75 years. Two separate cases were before the court, however, due to the fact that both cases were dealing with similar issues they were heard together in one sitting. This case is a peculiar one in that, under normal circumstances, decisions of the High Court are subject to the appeal of the Supreme Court. The Constitutional court has the final say in matters concerning the constitutionality of any legislation. There is a conundrum in that all the judges of the Supreme Court and the Constitutional Court are cited as respondents in the matter. Due to this fact, the judges cannot hear the matter as they have a direct role and interest in the case. While there will be an appeal, as confirmed by the Minister of Justice and the Judicial Service Commission, none of the current judges in the Supreme Court or the Constitutional Court can hear the matter. At this present moment, the Deputy Chief Justice, Elizabeth Gwaunza, is now the acting Chief Justice, while the most senior judge of the Constitutional Court, Justice Paddington Garwe, now holds the position of acting Deputy Chief Justice. It is important to emphasize the independence of the Judiciary, despite comments by the Minister of Justice expressing his disgruntlement over the judgement and insinuating that the appeal to be filed would lead to a different decision, a decision that favours Justice Malaba's continuation in office as Chief Justice.

Illicit Financial Flows Threatens Zimbabwe`s US$ 12 Billion Mining Industry Agenda
The Government of Zimbabwe is envisioning a US$12 billion mining industry by 2023. This was reaffirmed by the Ministry of Finance and Economic Development in the 2021 National Budget where the Treasury acknowledged that mining will be the leading sector in sustaining high and

shared growth during the 2021 fiscal year. However, the vision might remain a mirage if efforts are not directed towards curbing illicit financial flows in the mining sector. Mineral resource leakages continually undermine Zimbabwe and Africa's efforts to tap into the economic potential presented in the vast mineral resources. The main focus of this article is to explore the impact of illicit financial flows, especially in the gold sector, on domestic resource mobilisation and proffer recommendations.

Weekly Advocacy Message: Zimbabwe Should Lift Itself Out of Poverty With Good Economic Governance

On the 9th of May 2021, social media was awash of the news of a man who was suspected to be coming from Zimbabwe who was arrested at OR Tambo airport with 23 pieces of gold worth R 11 000 000. Using the 1 ZAR = 0.0711255 USD or the 1 US$ = 14.0597 exchange rate, the value of the gold is US$ 782, 380.37.The case that Zimbabwe has adequate resources to finance its own development has persisted with various arguments presented. One side of the argument which this edition of the weekly advocacy message is considering is that Corruption and Illicit financial outflows are the key factors inhibiting effective Domestic Resource Mobilisation in the country.

2. COVID-19 Resource Tracker Issue No.56

Overview

The COVID-19 Resource tracker is a ZIMCODD initiative to keep track of all resources pledged, received and expended by the Government of Zimbabwe in response to the COVID-19 pandemic from March 2020 to date. The aim of the COVID-19 Resources Tracker is to stimulate transparency and accountability around COVID-19 resources by empowering citizens with information to hold the government to account for the allocation and utilisation of COVID-19 resources. The tracker is updated on a weekly basis.

Zimbabwe continues to mobilise resources internally and externally to respond to the devastating socioeconomic effects of COVID-19. Among other efforts, the government in the 2021 national budget has set aside ZWL7 billion to recruit more health personnel, procure PPEs, testing kits and sundries required in fighting COVID-19. The government has also budgeted ZWL3.5billion to cushion 500 000 vulnerable households whose beneficiaries comprise the informal sector, returning residents and children living in the streets.

On 18 February 2021, the Government through the Ministry of Health and Child Care launched the vaccination program. To date a total of 452 191 Zimbabweans have been inoculated.

Overall

For the week ending 13 May 2021
Total Pledges = **US$840,971,689**; Honoured Pledges = **US$635,474,503**; Amount Spent = **US$519,305,028**

Major Concerns

WHO approves Sinopharm vaccine: On the 7th of May, the World Health Organization granted emergency approval of the Sinopharm COVID-19 vaccine. This gives the green light for this vaccine to be rolled out globally. As Zimbabwe continues to procure vaccines, there is need for the government to continue tracking and raising awareness on the safety and effectiveness of the Sinopharm vaccine to restore the citizen's confidence.

- The Government of Zimbabwe is commended for prioritizing equitable access to vaccines for its citizens. Given the availability of vaccines, it is important for government to facilitate optimal vaccine uptake. While taking into account best practices for long-term effects of COVID-19 on the social, financial and economic recovery.

Indian variant detected in South Africa and Botswana: In recent weeks the world has seen India suffer a large number of deaths due to the COVID-19 pandemic. An estimated 25 million cases have been discovered in India from which 21.2 million people have recovered and 274 thousand deaths recorded. The new variant detected in India has now been detected in South Africa and Botswana. There are significant possibilities that the new strain will soon be found in Zimbabwe given the proximity of Southern African countries, uncoordinated pandemic response strategies and ongoing inter-country travel of citizens. This again illustrates the need for a well-funded SADC coordinated response mechanism inclusive of joint monitoring and vaccine procurement measures to help Southern African governments to share the load.

Vaccine tourism initiative immoral: The vaccine tourism initiative by the private sector which was approved by the government at the beginning of vaccination in Zimbabwe raises concerns. It is reported by media that many foreigners have been flocking to Zimbabwe to get vaccinated at a cost of US$70. While we acknowledge the government's effort to raise revenue, it remains worrying that at a time when less than 5% of the population has been vaccinated, this may lead to prioritization of the rich thereby widening the already existing inequality gap between the rich and the poor.

- An ethical framework should be developed to guide vaccine distribution and prioritization of the vulnerable should remain key to ensure that the available COVID-19 vaccines benefit both the rich and the poor.
- With private players offering vaccines, it is critical for government to ensure transparency and accountability in the procurement of COVID-19 vaccines. Not only does this conform to the principles of public finance management and good governance but is also critical in informing continued decision-making about the pandemic to ensure adequate population coverage without exploitation of the people of Zimbabwe.

Specialised COVID-19 Vaccination cards to be issued: The Ministry of Health has ordered 9 million vaccination cards at an undisclosed price which are to be distributed in health facilities. It is anticipated that many countries will require visitors to provide proof of vaccination in order to enter their jurisdictions. As such Government's move to issue specialised electronic COVID-19 vaccination cards with security features that shall be used for travelling purposes outside the country is commendable. However, it remains worrisome that some clinics still report a shortage of the paper vaccination cards. Cases of corruption in the distribution of vaccination cards have also been recorded in the previous months.

- There is therefore need for government to curb the illegal distribution of these vaccination cards by enforcing and strictly monitoring the distribution of the vaccination cards to close all loopholes on corruption and fraud. While it is a noble idea to curb the fraudulent vaccination cards and impose a serious penalty for those found on the wrong side of the law.

3. ZUPCO Monopoly a Fecund Ground for COVID-19 Third Wave?

The failure by ZUPCO to provide timely, sufficient and efficient public transport has culminated in the birth of a shadow pandemic, an undeniable public transport fiasco as citizens now spend many hours in queue trying to go to work or home. The public transport centers have become dangerous as people spend a lot of time interacting and disregarding COVID-19 regulations. The failure of ZUPCO has led to the re-emergence of "mushikashika" which operates like unguided missiles running away from authorities and carrying passengers beyond their capacity. This can be evidenced by a Toyota Wish which is supposed to carry a maximum of 7 passengers yet the "mushikashika" team loads more than 11 passengers. There is complete disregard of COVID-19 regulations even though it is a public secret that the pandemic is still with us and its inimical and malevolent effects do not respect persons.

The World Health Organisation (WHO) ranked Zimbabwe the 7th country in Africa for managing COVID-19 vaccination. The acknowledgement of Zimbabwe`s efforts come at a time where news of the emergence of the COVID-19 third wave are engulfing the media and the world at large threatening to humanity and economies. The third wave is said to have emerged from India and has proven to be more lethal than the first and second wave. Although Zimbabwe`s recovery rate is 94.2% such pandemic management gain are under siege from poor public transport which has culminated in the monopolization of the transport sector by the government. The government put a blanket ban on all private Kombis in its effort to mitigate the COVID-19 pandemic. Although the move was noble at the time as they argued that it will be easy for the government monitor and regulate COVID-19 compliance of ZUPCO buses than Kombis. It is imperative to note that the proposed intervention measures could have worked had ZUPCO been capacitated to undertake the mandate given to it comprehensively.

To this end, there is need for the government to liberalize the transport sector and allow Kombis to return as this will help with swift and smooth movement of people. It will also reduce queuing congestion and lessen the time which people spend looking for transport thereby reduce public interaction.

4. Good Economic Governance will lift Zimbabwe out of poverty

Corruption and Illicit financial outflows are the key factors that are disenabling effective Domestic Resource Mobilisation in the country.

Earlier on this week on the 9th of May 2021, social media was awash of the news of a man suspected to be coming from Zimbabwe who was arrested at OR Tambo airport with 23 pieces of gold worth R 11 000 000. Using the 1 ZAR = 0.0711255 USD or the 1 US$ = 14.0597 exchange rate, the value of the gold is US$ 782, 380.37. This points to excessive revenue leakages and poor public resource management especially following another incident where Henrietta Rushwaya, a member of the connected elite in the mining sector, was caught at the Robert Gabriel Mugabe

International Airport whilst trying to smuggle 6kg of gold to Dubai in October 2020. The Rushwaya's case involved an estimated US$333 000 worth of gold.

Illicit financial flows in Africa and Zimbabwe continue to erode potential revenue that can lift the continent and the country out of poverty, debt and economic underdevelopment. The Economic Development in Africa Report of 2020, notes that Africa losses approximately US$ 89 billion to illicit financial flows per year which is equivalent to 3.7 per cent of the continent's gross domestic product. This figure has steeply gone up from at least $50 billion annually which was reported in the High-Level Panel on illicit financial flows from Africa Report led by the Mbeki Commission in 2011. Conservative estimates indicate that Africa is losing at least fourteen times more through illicit financial flows than what it receives annually as Official Development Assistance (ODA).

Evidence in the case of Zimbabwe shows that the illicit financial flows are fueled through State capture and rent-seeking. Zimbabwe has lost approximately US$ 32.179 billion to illicit financial flows in the last two decades and approximately US$ 1.5 billion in gold smuggling in 2020 against US$ 800 million official Fidelity exports.

To ensure that the country better addresses these issues of corruption and illicit financial flows for improved domestic resource mobilisation, the following are some of the calls for action and recommendations:

Extractives Industries Transparency Initiative (EITI): Government should urgently sign up to the Extractives Industries Transparency Initiative (EITI). The EITI is a global standard aimed at ensuring financial transparency and improved governance in the extractive sector. It will significantly enhance government's fledgling efforts to curb illicit financial flows and tax evasion and other leakages of natural resources by extractive sectors. The EITI is implemented in 55 countries who have all committed to uphold the same global standard along their extractive industry value chains. Each year every implementing country is expected to publish an EITI Annual Report disclosing pertinent information on the industry performance particularly how much is produced and how much revenue makes its way through to government coffers. Government's commitment to join the EITI should be put into action with haste to arrest the current plunder.

4th Industrial Revolution in the extractive value chain: The government should invest in information technology to ascertain the quantity and quality of geological deposits to curb under-declarations of quantity and quality of minerals to reduce illicit outflows of money from the country. A strategy to stimulate the local technology industry through the development of Information Technology Resource to strengthen local participation and government oversight of the extractive value chain could be a win-win for government, unemployed tec-graduates or start-ups and the highly informalised section of the Extractive industry at large.

Foreign currency retention threshold: The Government of Zimbabwe should consider removing the foreign currency retention threshold in the gold sector. This is vital to motivate gold producers to sell their gold through the formal gold market amidst indication of wholesale illicit financial flows particularly from the Artisanal and Small-scale Gold mining sector into international market depriving the country of critical revenue.

Catch and release system: The complicity of political elites in the country's law enforcement, judiciary and executive in illicit financial flows and mineral smuggling is encapsulated in the 'catch and release system.' This is whereby connected individuals arrested for smuggling and illicit financial flows have inexplicably avoided prosecution, thus giving the impression that some players in the extractive value chain are above the law despite tremendous harm to the public interest. A Parliamentary inquiry to identify the drivers of this phenomenon and institute urgent reforms is required to give much needed prominence to this national problem.

It is the responsibility of Legislators and legal system to stem out Political interference in the operations of the anticorruption institutions which continues to undermine the effectiveness of institutions and legislation responsible for combating illicit financial flows. There is need for the government to demonstrate political will to arrest and prosecute perpetrators and guarantee the independence of the responsible institutions.

Citizen involvement: Finally, civil society actors and communities should deepen knowledge in natural resources governance and strategies to demand transparency and accountability in the design, feasibility, selection, pricing, tendering and management of natural resources.

5. Illicit Financial Flows in the gold sector threatens Zimbabwe's US$12 billion mining industry agenda

The Government of Zimbabwe is envisioning a US$12 billion mining industry by 2023. This was reaffirmed by the Ministry of Finance and Economic Development in the 2021 National Budget where the Treasury acknowledged that mining will be the leading sector in sustaining high and shared growth during the 2021 fiscal year. However, the vision might remain a mirage if efforts are not directed towards curbing illicit financial flows in the mining sector. Mineral resource leakages continually undermine Zimbabwe and Africa's efforts to tap into the economic potential presented in the vast mineral resources. Illicit financial flows reduce domestic resources and tax revenue needed to fund poverty-reducing programs and infrastructure in developing countries.

This article briefly explores the impact of illicit financial flows, especially in the gold sector, on domestic resource mobilisation and proffer recommendations.

The World Bank defines Illicit Financial Flows (IFFs) as cross-border movement of capital associated with illegal activity or more explicitly, money that is illegally earned, transferred or used that crosses borders.[1] Illicit Financial Flows therefore entails the illegal acts themselves for instance corruption, tax evasion; that the funds are the results of illegal acts for example smuggling and trafficking in minerals, wildlife, drugs, and people; or the funds are used for illegal purposes for example financing of organized crime.[2] Every year, an estimated $88.6 billion, equivalent to 3.7% of Africa's Gross Domestic Product (GDP), leaves the continent as illicit capital flight, (United Nations Conference on Trade and Development,2020).[3] The revenue lost through IFFs would go a long way in turning around Africa's economic and social fortunes in as far as sustainable development is concerned.

In the case of Zimbabwe, the mining sector accounts for the bulk of IFFs and this is more prominent in the gold sector. A study conducted by AFRODAD estimated that between the

[1] https://www.worldbank.org/en/topic/financialsector/brief/illicit-financial-flows-iffs
[2] ibid
[3] https://unctad.org/news/africa-could-gain-89-billion-annually-curbing-illicit-financial-flows

period 2009 - 2013, Zimbabwe lost US$2.83 billion, through illicit flows, translating to an annual average of US$570.75 million and of the cumulative outflows, 97.88% of 6 billion were in the mining sector.[4] In 2019, the Minister of Finance and Economic Development is quoted to have said that Zimbabwe may have lost between 30 tonnes and 34 tonnes of gold to smuggling in the neighbouring South Africa.[5] This is attributed to a number of factors including corruption, dysfunctional regulation, weak enforcement of rules, tax evasion, tax avoidance, smuggling, lack of transparency and accountability in the collection and management of natural resource revenues and limited information on the quantity and quality of geological deposits.

Zimbabwe's[6] Minister of Finance Prof. Mthuli Ncube attributed gold leakages to unfriendly mining policies in the country including the foreign currency retention which prejudice gold producers. Whether the mining policy regime is to blame or not, it is a fact that the country is prejudiced of millions of dollars annually through smuggling of the precious mineral.

Domestic resource mobilisation is one of the most sustainable ways of raising revenue to fund public services and finance national development in general. Nevertheless, a domestic and comprehensive domestic resource mobilisation framework must be anchored on sound mineral resource governance anchored on transparency, accountability, efficiency and effectiveness. In cases where there is no effective domestic resource mobilisation, countries often resort to unsustainable borrowing and this has plunged countries like Zimbabwe into serious debt distress. It is through domestic resource mobilisation that social and economic woes like poverty, hunger, negative economic growth can be alleviated.

Recommendations

1. The government must consider an upward review of the foreign currency retention threshold in the gold sector to motivate gold producers to sell their gold through the formal gold market.
2. Lack of political will and political interference in the operations of the Anti-corruption institutions undermines the effectiveness of institutions and legislation responsible for combating illicit financial flows. There is need for the government to demonstrate political will to arrest and prosecute perpetrators and guarantee the independence of the responsible institutions.
3. The government should invest in information technology to ascertain the quantity and quality of geological deposits to curb under-declarations of quantity and quality of minerals to reduce illicit outflows of money from the country.
4. The government should immediately join the Extractive Industry Transparency Initiative. This will go a long way in ensuring transparency and accountability in the mining sector.

6. Understanding Monetary Policy

The majority of the Zimbabwean communities have little knowledge concerning economic dynamics and policies as they consider the subjects to be too technical. This is because, these are the kind of policies that takes the top-down approach or forward mapping. Forward mapping or

[4] ibid

[5] https://miningzimbabwe.com/smuggling-costs-zim-gold-stash/

[6] https://media.africaportal.org/documents/IFFsTowards_a_More_Integrated_Approach_for_Illicit_Flows_From_Zimbabwe.pdf

top-down approach denotes a process by which the central government, craft and implement a policy without the general input of the citizens. This usually happens in technical policies. Elmore (1978:174) propounded that, forward mapping begins at the top with explicit, clear as well as unambiguous goals and objectives of a policy which forces its way towards the outcomes[7]. Wang et al (2014:6) citing Sabatier (1986) reinforce Elmore`s view that the top-down slant starts with a policy decision for example a statute, then scrutinizes and determine the actions needed in implementation. Due to its top-down nature it is regarded as the "elite governing phenomenon" which is exclusionary in nature. To this end, the ZIMCODD as a social and economic justice coalition that specializes in public finance management seeks to lay the foundation and understanding of Monetary and Fiscal Policies. This will be done by a series of articles that will be published in the Weekly Economic Review starting with today`s topic "Understanding the Monetary Policy " followed by next week`s topic titled "Breaking Down the Monetary Policy", "Unpacking the Fiscal Policy" and "Breaking Down the Fiscal Policy" respectively.

Monetary Policy (MP) Defined

Monetary policy is the nerve-center of any country's economic policy, and everyone from formal and informal workers to huge financial institutions, either foreign or domestic, are impacted as it shifts. MP denotes measures deployed by the government through the Reserve Bank to influence economic activities, through manipulation of money supply and credit by altering interest rates. The primary goal of monetary policy is to attain high economic growth rate, stabilise wages and prices culminating in the attainment of full employment. Prior the 20th century, MP was arguably thought by most professors and economic experts to be of little use in influencing the economy. Nonetheless, inflationary trends during the Great Depression and after World War 11 made government to intervene and adopt robust measures to mitigate inflation by restricting growth in the money supply.

In Zimbabwe, the Reserve Bank is responsible for monetary policy. The Reserve Bank has a dual mandate that it seeks to attain through MP that is inflationary contraction and maximize employment. In general, the Reserve Bank aims to foster productivity without inciting higher inflation and reduce unemployment rate. According to the Monetary Policy Committee (MPC) press statement on the 4th May 2021, the Reserve Bank intends to maintain its "disinflationary path to the end of the year and expects year-on-year inflation to go below 55% by July 2021".

In fulfilling its mandate the Reserve Bank uses various MP tools hereunder:

- ***The Discount rate*: it is the interest rate charged by the Reserve Bank on short-term loans to financial institutions. On the 4th of May 2021, the Reserve Bank approved a ZWL 500 million loan for Micro, Small and Medium Enterprises (MSMEs) which MSMEs will access from the banks and micro financial institutions at 30% per annum to enhance growth and productivity in the MSMEs which has become the integral component of the economy. Generally, these loans are meant to cover reserve requirements or liquidity issues banks cannot meet through loans from other banks, which offer a lower state funds borrowing rate.
- ***Open market operations:*** The Reserve Bank buys and sell government securities like bonds and treasury bills in the open market. The Reserve Bank by buying back the

[7] Elmore, R.F. 1978. '*Organizational models of social program implementation'*, Public Policy, 26 (2): 185–228.

securities robustly increases the supply of money circulating-conversely, selling the securities lowers the supply. Economic experts are of the opinion that, open market operations are the most utilized method to initiate a MP.

- ***Quantitative easing (QE*)**: This is whereby the Reserve Bank utilizes its massive and immense cash reserves to buy up corporate bonds, stocks and large-scale financial assets. Although there are similarities between open markets, quantitative easing is carried out on a large scale at times in dire situations. The process includes purchasing more than just shorter-term government bonds when the interest rate is near 0% or already 0%. Nonetheless, the deployment of QE must be done in a prudent and skillful manner as its continuous use can trigger inflation and asset bubbles.
- ***Reserve requirements***: The Reserve Bank monitors banks reserves; this pertains to the amount of money that banks must have in their reserves anytime so as to comply with banking regulations. The reserves are to be secured in bank vaults to enable customers to access it anytime they need it. If the Reserve Bank lowers the amount banks are to keep in their reserves, the Reserve Bank will be encouraging banks to lend out more money. However, if the Reserve Bank raises reserve requirements it can do the inverse.

- ***Public service announcements (PSA):*** The Reserve Bank from time to time will announce to the public and financial markets about its economic outlook and policy measures it fostering to grow the economy. However, PSA may influence the economy positively or negatively depending on the Reserve Banks policy stance in the last years in respect to policy consistence.

Types of Monetary Policies

There are generally two types of MPs and these are contractionary and expansionary.

- *Expansionary Monetary Policy*: It is also known as loose Monetary Policy; it increases money supply and credit with the intention of generating economic growth. It is usually deployed as a strategy to stimulate growth in economic quagmires and reduce unemployment. This is usually attained by lowering Reserve Bank funds rate coupled with those that the banks use when they lend each other money in a bid to pacify reserve requirements.
- *Contractionary Monetary Policy:* It is also known as tight Monetary Policy; it reduces the country`s money supply to mitigate inflation. One of the strategies that the Reserve Bank usually uses, is to hike interest rates in a bid to slow price rocketing and money supply. The Reserve Bank has been utilizing contractionary monetary policy to curb inflation and unofficial channels of financial supply withdrawal limits are part of the strategy.

7. What does the High Court's decision on the Chief Justice's tenure mean?

On Saturday 15th May 2021, the High Court of Zimbabwe issued a landmark ruling in which it declared that Chief Justice Luke Malaba had ceased to hold office by operation of law. An attempt to extend his tenure by another 5 years was made through topical Constitutional amendments. Before the recent amendments were assented to by the President, the Constitution held that the age of retirement for judges was 70 years, the amendment changed that by extending the retirement age to 75 years. Two separate cases were before the court, however, due to the fact that both cases were dealing with similar issues they were heard together in one sitting. The main issue in question was the Constitutionality of the amendment pertaining to the term limit of judges.

Section 328 of the Constitution stipulates the specific procedure to follow for Constitutional amendments. One of the requirements in this section is that if a term-limit provision is amended, it should not benefit those who already hold a place in office at the time that the amendment is made, therefore, none of the current judges should stand to benefit from the amendment. The amendment sought to benefit Justice Malaba as he would be turning 70 years of age on 15 May 2021. This benefit could only be so if the amendment was submitted to a referendum where citizens would be given the opportunity to approve or disprove.

This case is a peculiar one in that, under normal circumstances, decisions of the High Court are subject to the appeal of the Supreme Court. There is a conundrum in that all the judges of the Supreme Court and the Constitutional Court are cited as respondents in the matter. Due to this fact, the judges cannot hear the matter as they have a direct role and interest in the case. While an appeal was filed, none of the current judges in the Supreme Court can hear the matter. One would then ask why, since this is a constitutional matter, it does not go to the Constitutional Court? The Constitutional court has the final say in matters concerning the constitutionality of any legislation as stipulated in section 175 of the Constitution. It reads, "Where a court makes an order of Constitutional invalidity of any law or any conduct of the President or Parliament, the order has no force unless it is confirmed by the Constitutional Court". Like the Judges in the Supreme Court, the Constitutional Court judges cannot hear the matter as they too have a direct role and interest in the case.

Section 175 goes on to stipulate that a court which makes an order of constitutional invalidity may grant a temporary interdict or other temporary relief pending decision of the Constitutional Court on the validity of the law or conduct concerned. The High court has made no such order although it declared that, the Deputy Chief Justice, Elizabeth Gwaunza, is the acting Chief Justice, while the most senior judge of the Constitutional Court, Justice Paddington Garwe, holds the position of acting Deputy Chief Justice. The constitutional invalidity declared by the High Court has no force until it is confirmed by the Constitutional Court in line with section 175(1) of the Constitution. It is important to emphasize the independence of the Judiciary as well as the doctrine of Separation of Powers, despite comments by the Minister of Justice expressing his disgruntlement over the judgement and insinuating that the appeal would lead to a different decision, a decision that favours Justice Malaba's continuation in office as Chief Justice.

It must be noted that this judgement does not have bearing on any other amendments of the Constitutional Amendments No.2 as only the constitutionality of the term limit provisions was challenged. Therefore, all other provisions of Constitutional Amendments No.2 still stand. This judgement and any appeals of the judgement are important, as courts have been described as being captured and this case dealt much with the right to protection and benefit of the law. It will be interesting to see how this case plays out as the judges of Zimbabwe's most superior courts have all been cited in the matter and therefore cannot hear any appeals. Courts must be independent, judges- impartial and the people of Zimbabwe must be able to find recourse in the law, through our courts.