



*Investing in People for Social & Economic Justice*

## OPINION PAPER

### **“Does the dismissal of Obadiah Moyo present a ray of hope in curbing Grand Corruption in the Management of Public Resources?”**

For centuries African economies have failed to grow as expected due to a number of issues, the chief reason for the demise in economic growth being systemic corruption which has dodged African governments for years. Despite the fact that Africa is resource rich the continent has not been able to break poverty chains due to a lack of political leadership that continuously promotes personal gain at the expense of the welfare of its people. Like many countries on the continent, corruption in Zimbabwe has been constant and systemic over the years and this has contributed to the worsening socioeconomic problems afflicting the nation to date. Grand corruption in Zimbabwe is intrinsically related to the exponential growth of public debt which currently stands at US\$ 18 billion. Grand corruption and illicit financial flows have also been established as the major drawback domestic resource mobilisation as large amounts of public resources have been siphoned outside the country leaving it heavily indebted. This has resulted in violation of basic human rights as citizens do not have access to water, health and education among other social and economic rights provided for in the section 4 of the constitution. With a world ranking of 158 out of 198<sup>1</sup> highly corrupt countries as per the 2019 Corruption Perceptions Index, the prevalence of systemic corruption in Zimbabwe is primarily as a result of a lack of political will to address the problem as political elites continue to benefit from the flawed systems while the rest of its population wallow in deepening poverty. Thus, while there are solid and noticeable developments in establishing the legal and constitutional framework to fight corruption in Zimbabwe, there is a continued absence of a clear demonstration of political will to fight and end corruption.

Zimbabwe has been peculiar in that the government has been central in driving the anti-corruption programmes but the irony is that it is the government elites who have also been implicated in one or more corruption related scandals. In order to fight corruption one of the most fundamental preconditions for success is political leadership and commitment which is lacking in the country. The lack of political will in dealing with corruption has been coupled with weak institutions which have contributed to the proliferation of corruption in Zimbabwe. Despite the establishment of the Zimbabwe Anti-Corruption Commission (ZACC) whose constitutional mandate is to spearhead government efforts in the fight against corruption this body has been largely ineffective due to government and political interference. This initiative

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<sup>1</sup> <https://www.transparency.org/en/cpi/2019/results/zwe>

has achieved limited success in alleviating corruption as demonstrated by current data which suggests endemic corruption in Zimbabwe across all sectors. The Covid-19 pandemic has also brought up heated debate on Zimbabwe's responsiveness to issues of corruption in an emergency situation with the dismissal of Dr Obadiah Moyo (former Minister of Health and Child Care) due to procurement inconsistencies in the fight against the pandemic taking centre stage in the fight against corruption. In response to this development, ZIMCODD conducted a poll survey<sup>2</sup> to garner public opinion on the dismissal of the Minister of Health. This paper assesses government's stance in curbing public sector corruption.

Dr Obadiah Moyo was dismissed by President Emmerson Mnangagwa on Tuesday 7 July 2020 subject to section 340 (i) paragraph (f) of the Zimbabwe constitution. The former Health Minister was relieved of his duties following allegations of his involvement in a US\$60 million procurement scandal related to Drax International, a bogus company which was contracted by the Health Ministry to supply health equipment in the fight against COVID-19. Since the coming in of Zimbabwe's second republic aptly dubbed the '*new dispensation*', Moyo becomes the second cabinet minister to be sacked by President Mnangagwa, after the former Minister of Environment, Tourism and Hospitality Industry, Priscah Mupfumira who was dismissed on 8 August 2019 on allegations of corruption and abuse of office involving US\$95 million of pension funds. Upon the dismissal of Mupfumira, President Mnangagwa identified "**endemic corruption as a major contributor to the country's economic woes**" and vowed "**to root it out.**" However, both Mupfumira and Moyo were granted bail and citizens fear that the cases are only illustrative of the "catch and release" gimmick synonymous with Zimbabwean corruption cases and will just fade away overtime.

It is in the public domain that since 1982, Zimbabwe has endured one corruption scandal after the other with the beneficiaries being senior public officials. What is worrisome is that not a single official has been held to account with no further action being taken against those who have been identified as beneficiaries of corruption. With the coming in of the new dispensation in November 2017, Zimbabweans pinned their hopes on the spirited promises by President Mnangagwa on a new and improved government that would tackle various issues head on including corruption. Despite these promises it is worrisome to note that new and bigger scandals have cropped up under the regime's governance. The new regime has been characterised by more spending with the government hiring presidential jets for multiple overseas trips while public hospitals have turned into "death traps" with, doctors, nurses, teachers and other government workers getting measly wages. The living conditions for the general populace in the country have also deteriorated to unprecedented levels. The ongoing industrial action by nurses; work cessation by junior doctors; the downing of tools by senior and specialist doctors; unavailability of medicines in most hospitals and clinics, lack of personal protective equipment for frontline health-workers in the wake of COVID-19 and overall dilapidated health facilities can all be traced back to mismanagement and the siphoning of public health resources through nefarious means.

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<sup>2</sup><https://twitter.com/ZIMCODD1/status/1281172325359116288>

## **The concept of systemic corruption in Zimbabwe's Public Finance Management**

Systemic corruption is a concept used to denote the level of corruption in a country and refers to the levels where corrupt activities are considered a way of life. In Zimbabwe, unethical activities have been normalised or regularised with public accountability becoming an exception and not the rule as per the country's constitution. Corruption has become a silent guiding principle that is steering the country's governance system towards an ungovernable state. Those in positions of power feel they have a right to undertake corrupt activities as a means of wealth accumulation with clandestine demands for bribes before made for services to be rendered. Important to note is that corruption in Zimbabwe is as old as the government, as such corruption has become intertwined in the country's governing system. The sacking of Dr Moyo as the Health Minister equates to nothing in the fight against corruption as he is just but one player in the corruption chain with many continuing to benefit in his absence. What the country needs are defined mechanisms to deal with the fundamental failure in the system which has seen the government turning a blind eye to the many who benefit from corrupt activities while sacrificing a few individuals in order to pacify the citizens.

To illustrate how grand systemic corruption has thrived in Zimbabwe, below is a list of some of the common corruption scandals that have hit the country since 1980 and involved political elites and/or those in their inner circles:

**1980 to 1990** - the National Railways Housing scandal of 1986; The ZISCO Steel blast Furnace and the Air Zimbabwe Fokker Plane Scandals of 1987; the Willowgate scandal of 1988 and the ZRP Santana scandal of 1989.

**1991 to 2000** - the War Victims Compensation Scandal of 1994; GMB Grain Scandal of 1995; VIP Housing Scandal of 1996; Boka Banking Scandal of 1998; Tecedel scandal of 1998; ZESA YTL Soltran Scandal of 1998; Harare City Council Refuse Tender scandal of 1998; the Housing Loan and the NocZim scandals of 1999; DRC timber and diamond scandal of 1999; the GMB Scandal of 1999; the Ministry of Water and Rural Development Chinese tender scandal of 1999 and the VIP Land Grab Scandal of 1999.

**2001 to 2020** - the Harare Airport Scandal of 2001; the Harare International Airport Road Scandal of 2008 to 2014; The RBZ Debt Assumption Act of 2015, the Command Agriculture Scandal of 2016; the ZPC scandal of 2016; the ZESA scam of 2018; the NSSA scandal of 2019 and the COVIDGATE scandal of 2020.

## **Gaps in the Institutional and Legislative Framework to Fight Corruption in the Management of Public Resources**

A closer look at the country's Anti-Corruption body has shown that it is ineffective in addressing corruption issues due to a lack of autonomy from politics. Action by the Anti-Corruption body has been concentrated on petty corruption while grand corruption cases have been given a blind eye. Among the challenges that have been faced in the implementation of anti-corruption strategies is lack of political will by elites across the political spectrum to deal with corruption and the inefficiency of the Zimbabwe Anti-Corruption Commission.

Although the Constitution of Zimbabwe, which is the supreme law of the land, dedicated Chapter 13 to establish institutions to combat corruption, there are pieces of legislation which need to be enacted to strengthen the anti-corruption legislation. Zimbabwe is yet to enact legislation in line with the provisions of Article 5 of the United Nations Convention against Corruption (UNCAC) which provides for Preventive anti- corruption policies and practices and sets out that **each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption** and Article 32 which provides for protection of witnesses, experts and victims of corruption. The absence of such legislation hampers investigations and the prosecution of individuals implicated in corruption cases.

Pepys (2000) argues that corruption within the justice system is a serious crime because it is the institution designed to correct the injustices in society. Corruption in Zimbabwe has infected justice and law institutions in which the powerful and the wealthy can escape arrest, prosecution and conviction through literally “buying justice,” (Tizor 2009) whereas the underprivileged are excluded from their rightful access to a fair justice service. Chief actors in this trap include the judges, public prosecutors, the police, court clerks and the prison wardens. Munakiri (2009) and Tizor (2009) argue that for a good bribe the Zimbabwe Republic Police (ZRP) can hold back or destroy case files and distort or destroy evidence. In some cases they are paid not to investigate cases while in worst case scenarios they even protect the alleged perpetrators if they are politically influential or wealthy. While Goredema (2001) argues that Zimbabwe’s judiciary system is by and large competent and credible, Tizor (2009) rejects this claim arguing that concerns have been raised about the alarming role of the ruling party’s influence, interference and its manner in appointing the party members to the judiciary positions who consequently become partisan. The Attorney-General has not been independent of the ruling party influence as should be the case.

### **Public opinion on Moyo’s Dismissal in curbing public sector corruption**

In a poll survey done by ZIMCODD on the dismissal of Obadiah Moyo, 93% of respondents were of the opinion that Moyo’s dismissal does not present a ray of hope in curbing public sector corruption. From the responses obtained, citizens bemoaned the endemic nature of corruption echoing that the dismissal in question is just but plugging out one component out of an ecosystem of corruption which makes it ineffective. Another issue of concern was that the dismissal; which came as a response to public outcry and threats of public demonstrations if nothing was done on the Drax issue; was not illustrative of the government’s commitment to fighting corruption hence interpreted as a way of “saving face” and/or “managing public perception.” Citizens also lamented the manner in which cases of grand corruption are dealt with at law with many cases before Moyo’s having been not concluded and those implicated going scot-free after arrests, questioning and a some court appearance. Below are excerpts from the citizens’ responses to the poll survey:

- *It falls short as long as he is not tried and jailed if proven guilty! If one is dismissed on corruption allegation then he or she must be prosecuted because only the prosecution of those who abuse public offices can give a true reflection of government's willingness to decisively deal with corruption.*
- *Him and others who have been implicated before were not fired from their party and there has never been a conclusive case on corruption that has seen anyone going to jail or paying back what they stole.*
- *Moyo is a small fish, his case is nothing but a tiny drop in a calamitous and ferocious sea of corruption other big fish are sanitizing themselves.*

- *He did not act alone. The bigger fish are still out there. Until everyone involved is prosecuted and jailed nothing has been achieved.*
- *Choreographed arrest and dismissal. He took one for the team to shift public attention from the real culprits.*
- *It's a drop in the ocean of public sector corruption. I emphasize that there is an OCEAN of public sector corruption for which the entire government must resign. I have the sense that most citizens have lost confidence that the Government is capable of fair dealing at all.*
- *Firing someone after numerous pressure from various sectors of the society does not reflect government's commitment to fighting corruption I see it as a way of covering up more corrupt individuals surely Obadiah was not working in isolation.*
- *We need to have the misappropriated funds back so that they can be re-directed towards public social services that benefit the poor.*

The above sentiments speak to issues of public mistrust emanating from the precedence on high profile cases, dating from way back in the 80's where those who have been implicated while within the sitting government were not prosecuted. Peace meal efforts were made in dealing with such cases in an effort to appease the general public. It is also worrisome to note how the current administration is not being decisive on the issue of externalisation of funds which has continued to bleed the public purse. Resources meant to benefit the country's population have been centred in the hands of a few political elites who continue to plunder and externalise funds while the nation suffers. The above sentiments call for sincerity of the government in following principle over expedience when dealing with corruption across all sectors in the country.

### **KEY CONCERNS:**

- COVID-19 exposed the inequalities, corruption and careless attitude of the state that citizens have bemoaned overtime. This has particularly manifested through massive looting of public resources under the guise of COVID-19 procurement in what has been coined the COVIDGATE scandal. Over the years, several reports by the Auditor-General's Office and parliamentary portfolio committees have been persistently exposing poor public finance management by public institutions and individuals whose interests are on amassing wealth. No action has been taken to rectify the anomalies identified by these and other institutions.
- Zimbabwe's lack of preparedness and poor response to COVID-19 against the backdrop of corruption and looting of public resources, has worsened the plight of health workers. In spite of the over US\$300million<sup>3</sup> received in aid from local and international players to strengthen the COVID-19 response, the government has abrogated its duty to provide decent salaries and personal protective equipment (PPEs) to doctors, nurses and other frontline workers thereby putting their lives at risk. The health system has remained in a dire state, particularly in regards to the capacity and infrastructure of health institutions to handle COVID-19 cases. This includes the limited capacity of the health department to conduct COVID-19 tests and the establishment of poorly-resourced quarantine centres. Given the surging numbers of corona virus cases in the country, one wonders what the

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<sup>3</sup> <http://zimcodd.org/wp-content/uploads/2020/07/tracker2-3.pdf>

government is prioritising when the health sector is not being placed at the top of the priority list.

- The decision to illegally award a multi-million-dollar contract for medical supplies by the former Minister of Health is retrogressive at a time when the Zimbabwean economy continues to shrink. The government; which is struggling to provide decent salaries and living conditions for healthcare workers, social safety nets for the vulnerable or realistic stimulus packages among other critical issues; has persisted with a costly culture of corruption and mismanagement of public resources resulting in huge loses of millions of dollars in the public purse. This level of systemic corruption has created a vicious circle that clearly undermines respect for the rule of law and the effective functioning of democratic institutions. Consequently civil, political, social and economic rights of the Zimbabwean people have been constantly violated in pursuit of personal gains.
- Failing to prosecute those who are found guilty of siphoning public resources for private reasons clearly illustrates how the government through state capture is protecting the interests of the few political elites while prejudicing the majority poor.
- To date, no one has been convicted while aligned to the sitting government. This has negatively shaped public views of the government as it buttresses the lack of public confidence and mistrust in the ruling government when it comes to dealing with corruption. Citizens anticipate that due process of the law should take its course and ensure that Obadiah Moyo's case does not fall victim of the "catch and release" phenomena which is synonymous with many cases of grand corruption in Zimbabwe.

## **ZIMCODD's Position**

While ZIMCODD commends the government for its efforts in exposing grand corruption and mismanagement of public resources, the recent dismissal of the former Minister of Health and Child Care, Obadiah Moyo is clearly necessary but not sufficient in curbing public sector corruption. ZIMCODD notes with concern that a lot still needs to be done for the government to go beyond the rhetoric in its fight against corruption and mismanagement of public resources. The country's leadership must show commitment and political will in its efforts towards the eradication of corruption in all its forms as it is detrimental to the progressive realisation of citizens' social and economic rights. This entails putting in place and the prudent implementation of robust public finance management mechanisms to safeguard public resources from abuse and corruption through public procurement. ZIMCODD therefore calls for the urgent need to revamp and revitalise all its public finance management systems and align them with the constitution. The government of Zimbabwe should therefore harness the political wheel<sup>4</sup> and political will to curb systemic grand corruption in Zimbabwe.

The following measures are recommended:

- Zimbabwe must apply the key mechanisms in the public sector to fight corruption as enshrined in Article 5 of the UNCAC which covers among other things, preventive measures, criminalization, law enforcement and asset recovery.

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<sup>4</sup> The legislative and institutional frameworks already in place to curb corruption.

- The government should in letter and in spirit implement and uphold constitutionalism. This should see implementation of measures that ensure justice, transparency and accountability in the management of public funds. This includes:
  - Strengthening the oversight role of the parliament through the Public Accounts and Budget and Finance Committees to ensure transparency and accountability in the procurement of COVID-19 resources according to Section 298 of the Constitution of Zimbabwe and the Public Finance Management Act. These committees should scrutinise all government expenditures in relation to COVID- 19 resources.
  - Strengthening institutions created to fight corruption such as the Zimbabwe Anti-Corruption Commission in policing, prosecuting and convicting corruption offenders.
  - Intensifying life style audits for political elites and public officials while ensuring that public office bearers declare their assets.
  - Dr Obadiah Moyo must face trial and be prosecuted for abuse of office and corruption related charges. He should face the stipulated penalties (a fine not exceeding level thirteen or a prison sentence not exceeding 15 years or both). The case should be further investigated and everyone involved should be brought to book.
  - Apart from prosecution, Moyo should also be ordered to pay back the US\$60 million to the State (restitution).
- The fight against corruption is a shared responsibility calling for constructive and persistent action and social dialogue between the government and civil society. In an effort to curb institutionalised corruption there is need for trial monitoring of Obadiah Moyo’s case by independent non-state organisations such as Transparency International Zimbabwe and the Zimbabwe Coalition on Debt and Development so as to enhance public scrutiny from the citizens’ perspective.
- To ensure transparency and accountability in the utilisation of COVID-19 resources, the Ministry of Finance and Economic Development and Ministry of Health and Child Care must publicly disclose financial and non-financial resources received as donations as well as the allocations and disbursements of same. In the same spirit, efficient, open and accountable procurement should be enforced including the disclosure of beneficial owners of all companies awarded COVID-19 procurement contracts.

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