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FORUM Q&A: ALEX MAGAISA ON ZIMBABWE'S UPCOMING 2018 ELECTIONS



*Alex Magaisa is a prominent Zimbabwean lawyer and constitutional expert currently teaching law at the University of Kent Law School in England. Between 2012 and 2013, he was chief of staff and principal advisor to Morgan Tsvangirai, then Zimbabwe's prime minister in a coalition government and leader of the Movement for Democratic Change, the country's main opposition party. In 2011–2012, Dr. Magaisa served as a key advisor to COPAC, the parliamentary committee that wrote Zimbabwe's new Constitution, which was approved at a referendum and signed into law in 2013. He is the author of a widely acclaimed blog offering in-depth analyses of law and politics in Zimbabwe. He is currently a **Reagan-Fascell Democracy Fellow** at the National Endowment for Democracy. On July 10, 2018, he will lead a presentation that focuses on "**Elections in Zimbabwe: Autocracy and Stasis, or Democracy and Change?**"*

In late July 2018, Zimbabweans head to the polls for the first elections since Robert Mugabe was removed from office after ruling the country for 37 years. The new president, Emmerson Mnangagwa, has promised to enact numerous reforms to improve

Zimbabwe's economic and political situation. Mnangagwa enjoys the support of the military and entrenched elite that served the Mugabe regime, making his willingness and ability to make positive changes unclear. Meanwhile, long-serving opposition leader Morgan Tsvangirai died in 2018, leaving Nelson Chamisa to lead the opposition MDC-T party. These new internal political dynamics are occurring against the backdrop of increased interest by the Russian and Chinese governments in Zimbabwe's vast mineral wealth.

Melissa Aten of the International Forum for Democratic Studies spoke with Alex Magaisa about these new political dynamics and what they mean for the future of Zimbabwe. (This interview has been condensed and edited for clarity. The views and opinions expressed here do not necessarily reflect those of the National Endowment for Democracy.)

Melissa Aten: The past nine months have been eventful for Zimbabwe, with the removal of long-time president Robert Mugabe, the installation of Emmerson Mnangagwa as the new leader, and the death of long-standing opposition leader Morgan Tsvangirai. Now, elections are scheduled for July 30. Given your experience working with the MDC-T party in Zimbabwe, what opportunities does the opposition have to bring democratic reform and economic growth to Zimbabwe?

Alex Magaisa: It's very difficult in Zimbabwean elections and African elections in general to fight against a powerful and entrenched incumbent. In Zimbabwe the big problem is that the current leader is basically in office because of the military, so the military has a huge stake in his continued stay in office. It's an enormous task, but I also think that the opposition has managed to mobilize and organize far better than anybody could have imagined after the death of Morgan Tsvangirai. The chances are looking good if they can overcome the impediments that are always put in place by the ruling party.

The opposition recently held a big demonstration to demand electoral reforms, essentially asking the Zimbabwe Electoral Commission, which is the referee, to be impartial and to do all that is required by the law. It was such a huge and well-organized rally, which demonstrated the power and organizational capacity of the opposition. The ruling party, ZANU-PF, also tried to organize a counter-demonstration. They wanted to do it on the same day as the opposition rally, but the police refused to give them permission. They had it the next day, and it was such a poorly attended and poorly organized rally. If you compare the two, many people have begun to see that the opposition has better prospects than they could have imagined.

The opposition also recently launched its manifesto, which was very well received by the people of Zimbabwe. It's a far better, more detailed, well-articulated document than the manifesto released by ZANU-PF a few weeks ago. So all of these have combined to demonstrate that the opposition is ready to govern, and I think it has given a lot of people some hope.

The challenge is that if the opposition wins this election, as in 2008, some elements within the ruling establishment may refuse to give up power just like they did then. The 2008 election resulted in a huge crisis that eventually led to a coalition government, which meant that the ruling party kept the lion's share of power and the opposition was there essentially to sanitize the whole arrangement. I think the international community needs to come in and really make it known that they will not accept the Zimbabwean government as a legitimate government if they refuse to give up power.

The military played a significant role in removing Mugabe in November. What role will the military play in the July 30 elections, and how does the military erode constitutionalism in Zimbabwe?

One of the permanent images that you see in Zimbabwe is that whenever the president is presenting a speech, there's always someone standing behind him. And that person is wearing a beret – it's a soldier. Mugabe used to have a policeman, but this new president has a soldier. It's a very symbolic image that says behind him there is a military that supports him. The military hasn't stopped being involved in politics. It has been involved in politics for a long time. I think they came out more openly last November in order to remove Mugabe, and I don't think that they have left the stage. One of the current vice presidents is actually the general who led the coup. So, the military is ever-present, and it has a stake in the political arena. They will want to make sure that they protect their interests and the economic gains they have made over the years. And, they will try to ensure that the election is in ZANU-PF's favor. If ZANU-PF doesn't win the election, the hope is that the military doesn't interfere with the transfer of power.

The Zimbabwean military elite and the political elite in ZANU-PF have a vast network that reaches into virtually every sector of the economy, including mining, agriculture, and whatever is left of manufacturing in Zimbabwe. After they retire, many senior military figures end up in the semi-private sector, working for state-owned companies as directors, board members, or chief executive officers. They also work for different arms of the state. The military has a huge stake in virtually every sector of the economy, but the diamond sector has been by far the most lucrative for them in the last 10 years.

The military has a specific role in the constitution. I was involved in the drafting of the constitution and one of the things that we really emphasized was that the military has to be apolitical, it has to be non-partisan, it is not supposed to interfere in politics, and they must keep to the barracks. Unfortunately, over the years the military has been involved in politics and in trying to promote the interests of ZANU-PF and prejudice the interests of other political parties. The military elite were together with ZANU-PF politicians from the war of independence in the 1970s, and so they are friends, they are comrades, and they share the same mentality. That's a huge challenge.

Do you believe the current government in Zimbabwe favors Paul Kagame's Rwanda model, which prioritizes stability and minimizes democratic development? How does the international community play into this, and what are the roles of China and Russia in Zimbabwe?

After the spread of multi-party democracy in the 1990s in much of Africa, there has been a rise in authoritarian dictators who prioritize what they call economic prosperity or stability. With this rise of the strong man, they are able to extend their terms of office and stay in office for a long time, often using very populist rhetoric. They conduct referendums where they get huge amounts of votes, and they establish their legitimacy that way.

Rwanda has been hailed as a success story in Africa in terms of economic progress, but that ignores the democracy and human rights situation in the country. I think that the current Zimbabwean president sees Rwandan leader Paul Kagame as a role model, and Rwanda as an example that can be emulated. In fact, over the last few months, he invited one of the top figures in Kagame's government to give a lecture to his own ministers, because he was impressed by how the Rwandan government manages the economy. Clearly, there is an inclination towards Rwanda.

I also understand that Mnangagwa sees himself as a Deng Xiaoping of Zimbabwe, as in the Chinese leader who came after Mao and who opened China to the world by adopting some free market principles while keeping the communist system intact. Mnangagwa sees himself as that guy who will come after Mugabe to do something different. But, as we all know, China remains an authoritarian state with vast human rights violations despite its economic success.

Russia is also having some influence. The Russians have been interested in Zimbabwe over the last few years, probably due to Zimbabwe's minerals. They sent the Russian foreign minister, Sergey Lavrov, who is a very powerful man, to Zimbabwe twice in the last three years. At first, when Mugabe was in power, and second, immediately after the

new president came into office. There is a clear statement of intent there by the Russians, because they have huge mineral or mining interests in Zimbabwe that they're trying to secure. The Chinese are already heavily invested in Zimbabwe. They have been for many years. By the way, the relationship between China, Russia, and Zimbabwe goes back to the days of the Liberation War. They supported the nationalist movements in Zimbabwe in the 1970s. ZANU-PF feels that it owes both China and Russia for all that support over the years.

The Chinese government has exploited its relationship with Zimbabwe. They had great interest in the diamond sector in Zimbabwe, and Chinese mining companies were taking raw diamonds to China with very little benefit to the local communities or even to Zimbabwe in general. The Chinese government was very unhappy when Mugabe nationalized those companies.

The Chinese government has never been concerned with the politics or human rights situation in Zimbabwe. Their interest is to continue to support ZANU-PF. They have programs between the Chinese Communist Party and ZANU-PF. They send young Zimbabweans for training and programs. ZANU-PF regards China as an "all-weather" friend.

I should mention that the Chinese have also **done quite a bit** in Zimbabwe. They built the National Defense University, just outside Harare. It's probably the best-equipped university in Zimbabwe, but it's also a military establishment built by the Chinese. Even the labor is coming from China. They have also signed a deal to build Zimbabwe's new parliament building. Of course, this worries people after the scandal over the **surveillance devices found** in the African Union building in Addis Ababa built by the Chinese. The Chinese government comes up with all these projects where they say they're donating to or they're doing something for Zimbabwe, but, of course, in exchange, they get far more.

When he came to power, President Mnangagwa promised to crack down on corruption, and he recently established an anti-corruption prosecution unit based in his office. You have been critical of this move. What are your main objections to this unit, and what reforms are needed to meaningfully address corruption in Zimbabwe?

When Mnangagwa came to power, he made several promises. He promised to fight corruption, but that's a song that we've heard before from his predecessor. He says a lot, but delivers very little, so we are not fooled by what he is saying. Secondly, he has also promised to establish an anti-corruption unit, which would be based in his office. This

unit would have prosecutorial powers, which is unconstitutional because the national prosecuting authority is supposed to be independent of the office of the president. The prosecutor general is the person who makes decisions on prosecution and that power cannot be delegated to anyone else, even the president's office. The president's office is more likely to abuse this power. If you place an anti-corruption unit in that particular office, you are really compromising it, and you're compromising the whole authority to prosecute. It's unconstitutional and it doesn't make sense.

To meaningfully address corruption in Zimbabwe, you need to demonstrate action. When Mnangagwa came to office, he could at least have demonstrated a clear intention that he wants to fight corruption but, unfortunately, he actually appointed many corrupt people to his cabinet. In terms of reforms, you need to start at the very top. You cannot appoint and you cannot work with people who have a known track record of corruption, or where there is suspicion of corruption. You must demonstrate serious intent by actually taking action, implementing the existing anti-corruption laws, and making sure that people who are accused of corruption are investigated. I also think that you need to resource the anti-corruption institutions, including the police and the prosecuting authorities. We have a Zimbabwe Anti-Corruption Commission, but it needs to be resourced. It also needs people who are competent in the job, even if that requires hiring people from outside the country to help with training. Corrupt people are able to hide their tracks, and without competent and well-resourced staff with investigative skills, it is difficult to uncover corruption.

Global Witness and others have documented how the military and other elites have looted Zimbabwe's vast reserves of diamonds, and it has been argued that President Mnangagwa enriched himself by acquiring mining interests in the DRC during its civil war. What are the top reforms required to combat kleptocratic behavior and bring transparency to Zimbabwe's mineral wealth?

It's important to have legislation that deals with diamond mining, which we don't have right now. We have an example in Botswana, which has had diamond mining for years. The reason why Botswana has become so successful over the years is because they have used their diamond revenues productively and more fairly across the country, making sure that the company that does the mining, De Beers, only has a 50 percent stake, and the other 50 percent stake belongs to the government of Botswana. So it's a 50/50 arrangement. The resources are not going to a few hands within a particular group. Botswana's infrastructure has grown over the years, because they are using the revenues from diamonds for it.

The problem with Zimbabwe is that you had all these companies that were given licenses to do diamond mining in Zimbabwe. Some of them were Chinese, with another stake often given to the Zimbabwean government nominally, but the reality was it was never going to the government. It was going to a few pockets—the leader, the political elites, the military elites—and each one of them had a claim in the diamond fields.

Zimbabwe needs to borrow the Botswana model. The Zimbabwean government needs to realize that diamonds are a resource that can be used to support an entire community, an entire country. The revenues should be going into the national fiscus. You need to have transparency, you need to have legislation, and you need to have a system that ensures that the resources that are received from diamond mining go into a particular fund that is managed by professionals. There has to be political accountability. We are not reinventing the wheel, so if you ask me what can we do, I would simply say go to Botswana and find out how they do it. Twenty or thirty years ago, Botswana was almost like a rural outlier. People in Botswana came to Zimbabwe to study, they came to Zimbabwe for shopping and other things. Now, Zimbabweans are going to Botswana. It's a question of leadership. In Botswana, there is a new leader every 10 years, and, even though it's the same party, they change and someone else comes in. They have got their democracy right in certain ways, and they're doing enough for their population. They're doing very well.