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www.democracyinafrica.org

Democracy in Africa is a website and a discussion space dedicated to building a bridge between academics, policymakers, practitioners and citizens. We focus in particular on encouraging academics to share their work on African politics in accessible formats, encouraging engagement and wide-ranging debate.

In particular, it seeks to amplify the voices of those working on the continent, especially early career researchers and those whose publications may not always find a broad audience due to the limitations of academic publishing. This is done through mentorship schemes, a #BookClub series that enables authors to share the findings of their latest publications, and a collaboration with the award winning e-newspaper, The Continent, which promotes the insights of African researchers on a weekly basis.

Our hope is that the website will encourage more people to study democracy in Africa and to make it easier for those who are already working in, and on, the continent to share ideas and information. We recognize the challenges faced by democracy in Africa, but also believe that on balance democracy represents the most likely political system to deliver on development and human rights – and is also the political system that the vast majority of societies in Africa wish to live under. To that end, we argue that more time, resources, and energy should be put into understanding the complexities of politics at a local, national, regional and global level. The website and discussion space represent a small but we hope significant contribution to this end.

To join the discussion, click here.
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These reports were completed in 2020 and based on research conducted before this date. The Democratic Republic of Congo case study therefore predominantly addresses the Shadow State that emerged under Presidents Laurent-Désiré Kabila and Joseph Kabila, rather than current President Félix Tshisekedi. The Zambia case study therefore focusses on the Shadow State as it was manifested under President Edgar Lungu, rather than current President Hakainde Hichilema. The report and its conclusions should be read with this in mind.
EXECUTIVE SUMMARY
Executive Summary

The idea that political institutions such as legislatures and judiciaries have been subverted by shadowy personal networks is one of the oldest narratives about postcolonial African politics. To date, however, understanding of exactly how the formal apparatus of the state is manipulated has often been clouded by the difficulty of collecting data on illicit and illegal activities, a tendency for in-depth empirical work to be siloed and focus only on one or two areas of subversion, and an overreliance on the concept of neo-patrimonialism.

In order to advance our understanding of how private networks may undermine public institutions, a group of authors from across Africa and the United Kingdom set out on a new research project that had two main components. The first was to further develop a conceptual framework through which to better think about the process through which the state is made to serve the interests of a small number of individuals rather than the public good. To do this, the research team expanded and refined William Reno’s concept of the Shadow State, which we define as an informal network of domestic and international actors, many of whom are not elected or are not operating in their official capacity, who collude to wield political, social and economic authority for their own benefit. The term ‘Shadow State’ is used because it does a better job of focusing attention on the interaction between state and non-state actors both inside and outside of formal state institutions. The primary alternative terms—‘deep state’ (often used to describe the United States) and ‘state capture’ (recently popularized in South Africa)—do not adequately address these dynamics.

The second component was to conduct four in-depth case studies of the Democratic Republic of the Congo (DRC), Uganda, Zambia and Zimbabwe through researchers with considerable experience and expertise. In each case, the researcher first asked whether there was evidence that a Shadow State existed, and if so identified its structure and key features. As well as analysing how the Shadow State sustains itself over time, researchers investigated its impact on both democracy and development. By combining interviews with well-placed individuals with official documents, NGO reports, academic literature and media coverage, researchers were able to develop a reliable analysis of the development and activities of the Shadow State. Examples were only included when they could be verified from more than one source. This conservative approach is designed to ensure that the report is reliable; it means that the impact of the Shadow State is almost certainly more significant than the case studies suggest.

This summary report first introduces the concept of the Shadow State and then summarises eight key findings that emerge from the four cases studies:

1. **The Shadow State exists.** In each case a Shadow State clearly exists and has a number of common elements. The access of private networks to the state upon which they are parasitic requires entry points at the highest levels and so usually runs through the president or prime minister, as well as through senior civil servants, such as permanent secretaries (or their equivalents), who run ministries. The need to generate resources both for personal enrichment and to fund election campaigns also means that it is common to find business people and central bank officials in shadow state networks. Similarly, the imperative of protecting members of the shadow state from prosecution for illegal activities ensures that senior members of the judiciary are usually co-opted at an early stage. Finally, because shadow states often emerge in contexts in which formal institutions are fragile and there is a lack of trust between rival parties and leaders, presidents tend to surround themselves with family members on whose loyalty they can depend.
2. **The shape and structure of the Shadow State varies considerably.** No two Shadow States are the same, and the four cases vary both in terms of the strength of private networks as compared with official state institutions, and in terms of which individuals and groups play an important role within the Shadow State. In the DRC, the international military alliances around President Laurent-Désiré Kabila and later his son, President Joseph Kabila, have played a critical role in shaping the Shadow State. But the vast size of the country, and limited control exerted by the state, means that at the local level the structure of authority is often unstable and confused, and so it may be more accurate to speak of a set of loosely connected shadow states. In Uganda, an axis of President Museveni’s family and a military aristocracy run the shadow state, along with a select number of interlocutors in the business community. In Zambia, the security forces have historically been less relevant and instead the Shadow State has been dominated the nexus between civilian politicians, government officials, private businessmen, and judges – though this may be changing under President Edgar Lungu. In Zimbabwe, the role that individuals played during the liberation struggle remains important to their status, while the importance of the military has grown since the early 2000s – raising questions about whether President Emmerson Mnangagwa or army leaders really hold power.

3. **The resilience of the Shadow State derives from the breadth of its networks.** In all four cases, the influence of the Shadow State has grown over time. Shadow State leaders are able to maintain control in part because their networks enable them both to gain an unfair advantage in elections – for example by using the security forces for political ends and business networks to raise vast campaign funds – while also ensuring that allies in the electoral commission and judiciary are on hand to declare and legitimate their victory, however dubious.

4. **The impact of the Shadow State depends on the degree of militarization and the scope and penetration of its economic activities.** Two of the most important sources of variation between our cases is the significance of the security forces (lowest in Zambia and much higher in the other three countries) and the breadth and depth of the Shadow State’s economic interests (narrowest in Uganda and Zambia and much broader in Uganda and Zimbabwe.) In general, the more militarized the Shadow State, and the more extensive its economic penetration, the more detrimental the impact on democracy and development. Shadow states have therefore had the most pernicious impact in the DRC and Zimbabwe.

5. **The Shadow State is a barrier to development.** In all four countries the activities of the Shadow State has diverted scarce funds away from the Treasury and into private hands. Partly a result, key public service priorities such as education, health and infrastructure remain underfunded. This is one – though far from the only – reason that our cases rank very poorly on the Human Development Index.

6. **The Shadow State is a barrier to democracy.** All of the presidents covered in the report have won elections and began their tenure with considerable popular support, but growing opposition due to development and other failures resulted in the use of the Shadow State to stifle dissent. By weakening checks and balances institutions, intimidating opponents, and censoring the press, Shadow State leaders seek to create an effective political monopoly. None of the countries has a free media and have significant democratic deficits.

7. **Fighting back against the Shadow State requires a focus on transparency and coalition building.** The resilience of the Shadow State means that many of the traditional ways of promoting political accountability are unlikely to be successful. Rolling back the illegitimate influence of private networks will therefore require long-term concerted action from a coalition of international and domestic actors, including efforts to enhance public awareness by publicizing the activities and consequences of the Shadow State and harnessing those influential institutions and individuals that have not yet been integrated into its networks.

Taken together, the presence of a Shadow State in the DRC, Uganda, Zambia, and Zimbabwe, the different variations in the form and significance of the Shadow State across time and space, and its
INTRODUCTION: THE SHADOW STATE IN COMPARATIVE PERSPECTIVE

Nic Cheeseman
1. The Shadow State in Comparative Perspective

1. Introduction: How private networks undermine public institutions in the DRC, Uganda, Zambia and Zimbabwe

The idea that political institutions such as legislatures and judiciaries have been subverted by shadowy personal networks is one of the oldest narratives about postcolonial African politics. Since the first days of independence in the 1950s and 1960s, researchers and commentators have worried that the strength of ethnic ties and clientelistic relations would overwhelm democratic checks and balances. From Nigerian military dictators siphoning off the proceeds of oil sales into Swiss bank accounts via their financial advisers in the 1980s to the personal ties and network of shell companies that facilitated the Goldenberg corruption scam in Kenya in the 1990s, it has been clear that political leaders need intermediaries in the business and banking world to move and secure their ill-gotten gains. Similarly, the assassination of critical voices—including the killing of opposition leaders in Rwanda and investigative journalists in Tanzania—highlights the way in which the use of irregular forces can help entrench a ruling party in power. Indeed, the most popular framework used to conceptualize Africa over the last 30 years, neopatrimonialism, depicts African politics as a struggle between the formal rules set down in constitutions and legislation, on the one hand, and the informal networks and relationships emanating from the president (or sometimes the prime minister, as in Ethiopia), on the other.

To date, however, understanding of exactly how the formal apparatus of the state is manipulated has been undermined in three ways. First, the idea that almost all of Africa is neopatrimonial has encouraged generalizations about the way that politics works across the continent. Second, the difficulty of researching power structures that often perpetrate criminal acts and are run by individuals bent on maintaining their economic and political privileges has meant there have been relatively few studies of the underbelly of the state detailing the individuals involved and how they engage with one another. Third, work on topics such as corruption or the exploitation of natural resources has typically focused on one sector or area, so there have been few attempts to understand how the different components of these systems are connected. As a result, little is known about the complex networks that wield considerable influence in many African countries, how they vary and the impact they have on political stability and development.

This research seeks to enhance this limited understanding through a series of specially commissioned reports on the Democratic Republic of the Congo (DRC), Uganda, Zambia and Zimbabwe. In order to leave behind the conceptual baggage that comes with the term neopatrimonial, and to focus attention on describing the specific networks and institutions that exist in these countries, attention in this series of reports is focused on identifying and describing the shadow state: An informal network of

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domestic and international actors, many of whom are not elected or are not operating in their official
capacity, who collude to wield political, social and economic authority for their own benefit. The term
‘shadow state’ is preferred over the term ‘state capture’ (the use of which has become increasingly
common in South Africa, in particular) because what has happened in the countries examined in this
research is not simply that private interests have captured political institutions and subverted them.
It is also that powerful individuals operating within the state have made common cause with those
outside the state to create alternative networks—the shadow state—that are often more powerful
than the official institutions detailed in the constitution (whether they have been captured). In this
sense, the shadow state is inherently antidemocratic. It shifts the locus of power away from
democratic institutions and into the hands of a relatively small number of elite individuals.

It is therefore crucial to know much more about the shadow state and its implications. In this summary
and the four specific case studies, the shadow state is mapped out, including identifying who is
allegedly involved and how they are connected to one another. The reports also document how the
shadow state has evolved over time and evaluate the extent to which they have acted as a barrier to
development and democratization. A number of factors shape the kinds of shadow state that emerge,
including the nature of the economy, the strength of political institutions and the historical process of
state formation. For example, the security forces occupy a more prominent role in countries that have
experienced either military rule or civil conflict, often leading to greater human rights abuses. At the
same time, multinational companies and economic brokers are more likely to occupy prominent
positions in countries with valuable natural resources, such as the DRC. In contrast, multinational
companies and economic brokers generally tend to be less significant in resource poor states.

Finally, in larger and more complex political systems—most notably the DRC—the shadow state is also
likely to become manifest in different ways within different regions, resulting in a complex
multilayered network that can often be particularly difficult to identify, in part because the members
themselves do not appreciate the full extent of the organization. In these cases, it may be more
accurate to speak of a series of overlapping shadow networks than one coherent shadow state with a
common core.

The significance of the shadow state itself also varies, both between states and over time. As might
be expected, the shadow state has been historically less significant in non-resource rich countries in
which formal political institutions are more robust; for example, in Uganda before the discovery of
commercially viable oil reserves; and in Zambia, at least to some extent, under the presidency of Levy
Mwanawasa. By contrast, the shadow state has been particularly prominent in countries where formal
political institutions are weak; for example, because they have been decimated by conflict, as in the
DRC. The shadow state may also become more influential within a given country over time as formal
institutions weaken, as has occurred in Zimbabwe since the early 2000s. In this sense, the shadow
state may be both a cause and a beneficiary of periods of institutional atrophy and democratic
backsliding.

In all four case studies, there is strong evidence that the presence of a shadow state has had a
detrimental impact on development and democracy, which has been shaped by the nature and
prominence of these networks. Although it is impossible to generate precise figures for the economic
impact of the shadow state, given the way in which it facilitates corruption and distorts government
priorities, the shadow states in these four countries have probably increased the level of inequality
and undermined the provision of public goods. As a result, there appears to be a clear relationship
between the presence of a shadow state and the level of poverty. The extent to which this correlation
holds, however, depends on the relative power of the shadow state, the breadth of its operations and
the proportion of state resources it siphons off and secures outside of the country through
international networks.
There is also strong evidence that the shadow state acts as a barrier to democratization. In addition to undermining the significance of formal political institutions, the networks described in each of these four countries play an important role in preventing political change. Business associates help to fund the campaign of the ruling party, while the media is used to prevent the opposition from getting their message out, and members of the security forces—often operating out of uniform—intimidate and harass opposition supporters. Where the shadow state is particularly pernicious—as in Zimbabwe—changing the government through the ballot box may be all but impossible. Even when the shadow state is less extensive, as in Uganda, it may still reduce the prospects for political change in conjunction with a dominant ruling party. In turn, political control enables the members of the shadow state to entrench their position.

Revealing how the shadow state works is an important first step to challenging its operations. It is equally important to consider how civil society groups, opposition parties and the international community can respond. This will not be an easy process: One of the most harmful features of an effective shadow state is the capacity to demobilize opposition and undermine institutions that safeguard checks and balances. Nonetheless, effectively responding to the shadow state is an important task for those who care about democracy and development in Africa.

1. Studying the shadow state

The specific form of shadow state that emerges in each country is shaped by the type of resources that drive the economy, the strength of official state institutions, and past processes of conflict and state formation. The case selection of the DRC, Uganda, Zambia and Zimbabwe is designed to enable exploration of the way that variation along these different dimensions gives rise to different types of shadow states. While these countries are by no means representative of the whole continent—the sample does not include full democracies and so reflects the more authoritarian countries in Africa—it does include representatives of east, central and southern Africa, and thus three of the continent’s main regions.

These case studies also offer valuable variation in terms of the significance of natural resources (Table 1). While the DRC has long been thought of as two of the most resource rich states in Africa, this is not true of Zambia, which exports copper but has often struggled economically due to its low price on world markets. Uganda is soon to start exporting oil. Until this point, however, the country was historically a predominantly agricultural economy. The same is the case in Zimbabwe, although as agriculture has declined legitimate and illegitimate diamond exports from the Marange diamond fields have become an increasingly important source of state— and more accurately Shadow State — revenue.

Variation in terms of the processes of state formation, the strength of formal political institutions and to a lesser extent the quality of democracy are revealed in this selection of case studies. Repeated bouts of civil conflict and the size of the territory have undermined state formation in the DRC and also given rise to authoritarian rule. By contrast, Zambia has a reputation for relative political stability and experienced a largely peaceful transition to multiparty politics. Moreover, the country has now witnessed two transfers of power, though key institutions remain vulnerable to subversion. For its part, Zimbabwe was rated as a relatively free and rule-bound political system in the 1990s but has suffered a period of democratic backsliding that has gone hand in hand with the weakening of key institutions, such as the legislature.
Table 1.1. Key features of the four case studies

<table>
<thead>
<tr>
<th>Key features</th>
<th>DRC</th>
<th>Uganda</th>
<th>Zambia</th>
<th>Zimbabwe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resources</td>
<td>multiple*</td>
<td>oil (recent)</td>
<td>copper</td>
<td>diamonds</td>
</tr>
<tr>
<td>Ethnically diverse</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
</tr>
<tr>
<td>Civil war last 20 years</td>
<td>yes</td>
<td>no (1980s)</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Democratic quality**</td>
<td>not free</td>
<td>not free</td>
<td>partly free</td>
<td>partly free</td>
</tr>
<tr>
<td>Institutional strength</td>
<td>weak</td>
<td>moderate</td>
<td>moderate</td>
<td>moderate</td>
</tr>
<tr>
<td>Size (landmass)***</td>
<td>vast</td>
<td>small</td>
<td>large</td>
<td>small</td>
</tr>
<tr>
<td>Term limits enforced</td>
<td>yes****</td>
<td>no</td>
<td>yes****</td>
<td>n/a****</td>
</tr>
</tbody>
</table>

* Diamonds, cobalt, gold, coltan and cassiterite.
*** Vast = more than 2 million km²; large = more than 750,000 million km²; and small = 0 to 750,000 million km²
**** President Kabila overstayed in the DRC but eventually organized elections and stood down; there is a current term limit controversy in Zambia, where President Lungu is aiming to run for a controversial third term. No president has yet come up against the two-term limit in Zimbabwe.

It is important to note that the strength of institutions and the quality of democracy may not always run in the same direction, however. In the case of Uganda, high levels of repression under President Museveni’s National Resistance Movement have gone hand in hand with the creation of a fairly effective set of formal political institutions that should not be considered weak simply because they are used to sustain authoritarian rather than democratic governance. In this case, the significance of the shadow state is constrained by the fact that President Museveni has a range of official institutions at his disposal, and therefore is less reliant on informal networks than some of his counterparts.

This variation within the four case studies makes it possible to generate insights into how a range of factors shape the shadow state and its impact. In order to investigate the particular manifestation of the shadow state in each country—and indeed to ascertain whether such a thing exists at all—researchers conducted fieldwork in order to go beyond reporting rumours to actually being able to document how these networks operate. In all four cases, this involved arranging interviews with figures who could provide valuable insights into how the shadow state works. By combining these interviews with official documents, NGO reports, academic literature and media coverage, researchers developed a reliable analysis of the development and activities of the shadow state.

In conducting this research, the researchers faced two particularly significant challenges. The first was the reluctance of many people to talk on the record about these issues and the fact that there are few records or official sources on shadow state activities. A second considerable challenge was the danger that their safety and that of participants would have been put at risk if their investigations were perceived to be a threat to prominent shadow state actors. The latter challenge—regarding our ethical responsibility to protect both sources and researchers—was addressed by giving all of those involved anonymity in cases where to do otherwise would have put them in danger. The former challenge was managed by triangulating between different sources to generate as accurate a depiction of the shadow state as possible. If a story could not be verified with a reasonable degree of confidence, it was removed.

This conservative approach means that these reports do not contain some of the more outlandish rumours about how corruption and repression are perpetrated in the four case study countries. Instead, the focus on gathering verifiable information has the benefit of lending greater credibility to the conclusions that are reached in this series of reports. It is therefore worth keeping in mind that...
these analyses of the shadow state almost certainly underestimate the extent of the challenge it presents to development and democracy in Africa.

2. What is the shadow state and why does it matter?

The shadow state can be defined as ‘a system of governance in which a form of parallel government is established by a coalition of African rulers, local intermediaries and foreign companies, such that the formal apparatus of the state is not where real power lies’. The term has been popularized in the African context by William Reno, who uses it to describe corruption and state politics in Sierra Leone. In the Sierra Leonean context, Reno explains how international networks between politicians, warlords and international businesses facilitated personal enrichment. In turn, greater wealth enables these figures to give out greater patronage and hence expand their authority. By undermining the official bureaucracies in their states, however, leaders weaken the formal system of government just as they strengthen their informal power.

In its most extreme version—as described by Reno in Sierra Leone—the shadow state is characterized by the existence of private armies and a severely limited, almost imaginary, formal state apparatus. More recently, however, researchers have identified manifestations of the shadow state in countries that are not in the midst of civil war and that also have a stronger formal political system, such as Kenya and Zambia. In these cases, the shadow state is less oriented around the existence of private armies and the need for leaders to control natural resources in order to fund their rebellion. Rather, shadow state activities focus more on the monopolization of political and economic power in the hands of a small number of elected and unelected officials. This kind of shadow state is best understood as an informal network of domestic and international actors, most of whom are unelected or are not operating in their official capacity, who collude to assert and maintain political, social and economic control for their own benefit.

In this sense, almost all countries across the globe feature some degree of a shadow state. In the United States, for example, the term ‘deep state’ has come to be used to refer to the undue influence that lobbyists and the military–industrial complex can wield within the American political system. The shadow state is therefore not unique to Africa, though its particular manifestations may be distinctive in terms of who is involved, the processes through which they establish control and the implications of their activities for democracy and development.

Understanding the nature and impact of shadow states is important because where they are particularly strong and pernicious, the power to make important political and economic decisions does not lie within democratic institutions, such as the parliament, but rather power is in the hands of what C. Wright Mills influentially referred to as a ‘power elite’. Recent research on the power elite in sub-Saharan Africa has defined this as a relatively well-structured network of people located in government, state institutions, state-owned enterprises (SOEs), private businesses, security agencies, traditional leaders, family networks and the governing party who are distinguished by their privileged access (either consistently or intermittently) to the inner sanctum of power in order to make decisions. In its most problematic form, the shadow state therefore undermines democratic accountability and diverts the focus of government from meeting the needs of citizens to meeting the needs of relatively small networks of privileged individuals. As a result, the long-term implications of

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7 Ivor Chipkin & Mark Swilling, Shadow State: The Politics of State Capture, Johannesburg: Wits University Press, “Key Terms”.
8 For examples of how this happens, see Nic Cheeseman and Brian Klaas. How to rig an election. Yale University Press, 2019.
the existence of a shadow state can be detrimental both to democratization and inclusive economic development.

The analyses of the DRC, Uganda, Zambia and Zimbabwe reveal that the exact composition of shadow states varies from country to country but usually features the president at the apex, surrounded by some combination of:

- business leaders;
- bank managers and central bank officials;
- senior members of the judiciary;
- members of the electoral commission;
- members of the tax authority;
- members of regulatory bodies in areas such as land & planning, safety and food production;
- political fixers (brokers);
- media owners;
- traditional, ethnic and religious leaders;
- senior officials in the security forces;
- militias and private security;
- family members of the above;
- multinational companies, economic brokers, and foreign banks;
- international supporters, including foreign governments; and,
- and in a much smaller number of cases, transnational criminal networks.

These unelected individuals are able to wield considerable power both because of the positions that they hold within society and through their privileged relationship with elected leaders, most notably the president or prime minister, but also cabinet ministers, influential regional actors and senior civil servants. In turn, elected officials depend, to a greater or lesser extent, on the support of the shadow state to raise funds for elections, undermine the efforts of opposition parties to campaign and ensure that electoral and security officials make decisions that favour the ruling party. In some cases these domestic groups and individuals are sustained by their ability to manipulate their engagement with multinational companies, international donors and foreign banks.

The focus on unelected as well as elected individuals in this series of case studies is important: The shadow state does not simply refer to any kind of abuse of public office. For example, petty corruption perpetrated by politicians or efforts to change the law to expand the powers of the government have been documented in a broad range of political systems⁹ and do not necessarily indicate the presence of a Shadow State. It would only be appropriate to take these kinds of developments as evidence of the existence of a shadow state if they had been facilitated and promulgated by (or at least involve the strong engagement of) unelected figures with no official standing.

In other words, what marks out the shadow state is not simply bad government or the abuse of office but the continued interaction and collusion of a network of elected and unelected individuals to maintain political and economic control. Thus the shadow state may be parasitic on the formal or official state but is also distinct from it. Understood in this way it should be clear that while many shadow states feature members who engage in illegal and illicit behaviours, much of their activities – and sources of strength – are legal. For this reason, we do not follow the recent trend that has focussed

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on the ‘criminalization of the state in Africa’, though we recognize that in some cases we are describing similar processes.¹⁰

The term ‘shadow state’ is used in this report because it does a better job of focusing attention on the interaction between state and non-state actors both inside and outside of formal state institutions. The primary alternative terms—‘deep state’ (often used to describe the United States) and ‘state capture’ (recently popularized in South Africa)—do not adequately address these dynamics.¹¹ The idea of the deep state, for example, implies that the key relationships take place at the heart of the state itself. This term therefore risks focusing attention away from the main feature of such systems; namely, that they connect state and non-state actors into a powerful network capable of subverting the formal political process in its own interests. Similarly, the concept of state capture places heavy emphasis on the takeover of formal state institutions by outside forces. While this is one critical element of the shadow state, researchers operating within this conceptual framework risk overlooking the considerable amount of activity that takes place beyond the realms of the state. In fact, elected officials and civil servants often represent a small proportion of the individuals who make up the networks that are described in this research. Moreover, while heavy emphasis on the formal state may be appropriate where formal political institutions have greater purchase, as in South Africa, such focus may be less helpful in cases where these political institutions are particularly weak, as in Sierra Leone.

Recent research on ‘democracy capture’, which is said to occur when ‘a few individuals or section of a supposedly democratic polity are able to systematically appropriate to themselves the institutions and processes as well as dividends of democratic governance’, is in some ways closer to the phenomenon that we seek to understand, in that it considers the state and non-state mechanisms through which democracy can be undermined. We do not use this term for two reasons, however. First, if democracy capture is seen to be a sub-set of state capture then it risks being reduced to a tight focus on the subversion of state institutions, and as discussed above such an approach is narrow for our purposes. Second, we wish to analyse the impact of different arrangements of private networks on democracy and so it is essential that we maintain an analytical distinction between this form of governance and the quality of political rights and civil liberties.

Although all Shadow States are distinguished by the existence of durable networks linking elected and unelected individuals, the exact shape, composition and impact of these networks vary markedly across different countries. As a result, the existence of a Shadow State can have a range of different implications for democracy and development.

3. What is the shape of the shadow state in Africa?

All shadow states tend to feature common elements. The access of private network to the state upon which they are parasitic requires entry points at the highest levels and so usually runs through the president or prime minister, as well as through senior civil servants, such as permanent secretaries (or their equivalents), who run ministries. The need to generate resources both for personal enrichment and to fund election campaigns also means that it is common to find business people and central bank

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officials in shadow state networks. Similarly, the imperative of protecting members of the shadow state from prosecution for illegal activities ensures that senior members of the judiciary are usually co-opted at an early stage. Finally, because shadow states often emerge in contexts in which formal institutions are fragile and there is a lack of trust between rival parties and leaders, presidents tend to surround themselves with family members on whose loyalty they can depend. In part, this is the case because it is clear that fragile formal political institutions mean any deals that are made between different parties/leaders may not be enforceable in the long-run.

Figure 1.1. Archetypal strong and pervasive Shadow State

While most shadow states—including all four case studies in this series—share these common features, they also vary in important ways. It is possible to imagine fairly closed systems where almost all the key players are domestic and there is relatively little outside influence. It is equally possible to imagine more open systems that are connected to the wider world through international donors, foreign partners, multinational businesses and transnational crime and economic networks. In most cases aid agencies provide development funds, some of which it may be possible to divert to enrich and strengthen the Shadow State. Less frequently, the Shadow State may receive direct military and

13 Securing family loyalty may include the strategic use of marriage as a way to strengthen ties between key political, economic and military elites.
political support – or at the very least protection – from allied foreign governments such as China and Russia in a process that has recently become known as ‘autocracy promotion’.\(^\text{15}\) Some Shadow States buttress these ties with a complex set of economic relations to a variety of multinational companies, economic brokers and foreign banks, and in a smaller number of cases transnational organized crime networks.\(^\text{16}\) However, there are profound differences in the extent to which African states are ‘extraverted’.\(^\text{17}\)

Shadow states may also vary in their complexity in another way; namely, that geographically large states—especially those that feature a degree of federalism or decentralization, such as the DRC—might be expected to demonstrate more variation than smaller or more centralized states. Relatedly, it is reasonable to expect to see considerable differences in the extent to which power is concentrated with the president or is dispersed between a number of influential cabinet ministers, family members and political fixers. A further important dimension of variation is the relative power of civilian and military (or rebel) forces. While many shadow states that have emerged during or in the wake of conflict have been led by former military or rebel leaders, others are run by career politicians. Further variations are also plausible; for example, in terms of the relative power of politicians and members of the civil service; the extent to which the shadow state is ethnically homogenous or ethnically diverse; and the degree to which key institutions such as the legislature and the judiciary are compromised.

Indeed, the key features of the four shadow states covered by this report are very different. In Uganda, President Yoweri Museveni presides over a set of personal networks that are embedded in family ties and personal relationships—the royal family—and secured through his control over the security forces, which play a variety of roles, including occupying what are officially civilian positions. In this case, the significance of the shadow state is limited by the relatively strong capacity of elements of the formal state. The reverse is true in the DRC, where formal state institutions are weak and the government struggles to assert its authority over the whole territory. The security forces occupy a role that is much broader than their formal activity and are intimately involved in a range of predatory economic behaviours, including smuggling and taxation. This is, however, insufficient to enable (now former) President Joseph Kabila to establish effective control, and so the DRC features a range of overlapping—and at times contradictory—forms of authority.

Zambia offers a further twist. That is, the police and army are often used to intimidate the opponents of President Edgar Lungu but have never played a major role in shaping the composition of the government or public policy. Instead, the Zambian shadow state relies more heavily on a network of civilian business people, judges and politicians. While the economy in Zambia is intimately integrated into international networks through foreign ownership—Australian, Canadian and Chinese—of copper mines, outside this the role of multinational businesses and economic brokers appears to be less significant than in the DRC. The situation again differs in Zimbabwe, where President Emmerson Mnangagwa relies heavily on the enforcement capacity of the army, which was responsible for putting him in power and has become embedded in a set of corrupt international economic networks related to the export of diamonds. In stark contrast to Uganda, the creeping militarization of the shadow state has raised questions as to whether Mnangagwa is actually in full control or is instead serving the interests of the armed forces.


These case studies therefore provide a helpful illustration of three particular aspects of the variation described above. First, in countries that have recently experienced civil war, armed liberation struggle or coup—as in the DRC, Uganda and Zimbabwe—the security forces and private armies or militias play a significantly more prominent role. When this occurs, the shadow state is far more likely to be involved in activities that undermine human rights and democratization. Second, in cases where the economy features high value natural resources—as in the DRC and to a lesser extent Zimbabwe—economic actors, including multinational companies and foreign banks, tend to play a much more significant role. One implication of this is that the economic activities of the shadow state may lead to a greater share of wealth being taken outside of the country. Figure 2 provides a visual representation of where the four case studies can be located along these two dimensions. In general, the significance and impact of the shadow state can be expected to increase when moving from the bottom left of the figure towards the top right.

**Figure 1.2.** Schematic depiction of cases according to the degree of militarization and economic penetration, on the basis of the country case studies

Beyond these two dimensions, it is also obvious that the influence of the shadow state itself varies over space and through time. It is therefore important not to simply assume that these networks are dominant—one of the main weaknesses of the neopatrimonial literature—and instead to empirically measure their significance on a case by case basis. Where democratic political institutions are strong, the shadow state may play a relatively limited role; for example, facilitating corruption but having little impact on elections and major political decisions. Where authoritarian political institutions are strong, as in Uganda and Zimbabwe, the shadow state may only play a supplementary role in undermining democratic processes. By contrast, it is where formal institutions are weak that informal relationships and structures are likely to determine economic and political processes. This may be the case either because a history of conflict has undermined the effectiveness of formal structures, as in the DRC, or
because the activities of the shadow state itself have led to a deterioration in formal state capacity, as in Zimbabwe.

Private armies and the security forces

Zambia is the only country among the four case studies in this study that has neither had a civil war nor experienced military rule. With the exception of a small number of unsuccessful coup attempts, none of which were led by senior figures within the armed forces, the military has remained firmly under civilian control. In line with this, all postcolonial presidents have been civilians and the military has had a limited presence in the ruling party and cabinet. The absence of civil conflict and the relatively limited use of election militias has also meant that the presence of non-state armed groups has never been a major feature of Zambian politics. This does not mean that members of the military are not part of the shadow state. On the contrary, there is considerable evidence of corrupt networks linking senior military and political figures, and four retired military generals have been investigated for corruption in recent years. Civilian control of the armed forces merely indicates that military figures are generally seen to play a subordinate rather than a leading role in the Zambian shadow state.

The situation is very different in the other cases, in which the military has played a central role in securing power for political leaders. In Zimbabwe, former President Robert Mugabe’s regime consistently relied upon the security forces to intimidate and eradicate opposition. Having come to power on the back of the leading role that he played during the Bush War against white minority rule, Mugabe regularly used the security forces to eradicate political challengers, both real and imagined. Moreover, as the leader of the Zimbabwe African National Union (ZANU), and its armed wing, the Zimbabwe African National Liberation Army, Mugabe understood how to deploy force to achieve political ends. From the very beginning of Mugabe’s time in office, the security forces were used to purge potential rivals, most notoriously in the Gukurahundi massacres of the early 1980s, which were triggered by his fear that dissident guerrillas from the Ndebele community might represent a threat to the regime. More broadly, Mugabe’s focus on the liberation war as a source of legitimation for his rule has ensured a prominent role for former rebel leaders. Indeed, the role that an individual played during the liberation war has continued to serve as a key indicator of their status within the ZANU Patriotic Front (ZANU PF) regime.  

Especially from the late 1990s onwards, the Zimbabwean government and state became progressively militarized as ZANU PF lost popularity and increasingly relied on the security forces to retain power. During this period, economic decline, a failed intervention in the DRC and the emergence of political opposition in the form of the Movement for Democratic Change (MDC) in 1999, eroded support for the government. During a series of hotly contested legislative and presidential elections between 2000 and 2008, it became clear that ZANU PF was likely to lose a free and fair contest. The response of the government was twofold: First, to use the security forces to harass and intimidate opponents; and second, by approving the mass invasion and takeover of farms for the first time in order to win back the support of frustrated war veterans, who felt that they had not been sufficiently rewarded for their sacrifice.

Growing government reliance on the security forces saw military figures increasingly taking on what had previously been civilian responsibilities, including positions within key ministries and the electoral commission. At the same time, the military was allowed to loot diamonds, timber and other resources during its ultimately unsuccessful intervention in the DRC, and to establish control over the Marange diamond fields. This effectively bound the military elite ever tighter to the ZANU PF government and

ensured that military leaders continued to become wealthier despite the context of an economic downturn that undermined the ability of the regime to maintain basic public services.

The shadow state that emerged under the Mugabe regime thus gradually transferred power out of civilian hands. The fall of Robert Mugabe in 2017 did nothing to arrest this process. Instead, it confirmed just how influential the military had become. The years leading up to 2017 had witnessed an increasingly bitter factional struggle for control over ZANU PF between Lacoste, a faction led by Vice President Emmerson Mnangagwa, and G40, a faction associated with (but never actually led by) Mugabe’s wife, Grace. For much of this period, Mugabe had played a clever balancing act, refusing to back one faction over the other. In late 2017, however, he moved to sideline Mnangagwa and his allies in the military, such as army chief Constantino Chiwenga, effectively siding with G40. In response, the military launched Operation Restore Legacy and forced Mugabe from power, installing Mnangagwa as his replacement.

The prize that the military sought in return for their role as political power broker was even greater economic and political influence. In addition to Chiwenga being appointed vice president—officially stepping back from his army role—the military was increasingly able to penetrate key sectors of the economy. In turn, this significantly compromised the ability of Mnangagwa to deliver the economic reforms that are necessary to kick-start growth and create jobs, and therefore to deliver on campaign promises that he made during the 2018 general elections. Indeed, until a period of ill health removed Chiwenga from the political scene, commentators speculated that Mnangagwa might not actually be in charge; or at the very least, that his capacity to discipline senior military figures was significantly constrained.

In this sense, the Zimbabwe case study is particularly important because it reveals the potential for the shadow state to erode its own foundations if key actors, such as the military, refuse to play a subordinate role. In the Zimbabwean context, the economic opportunities given to the military have enabled the shadow state to retain the loyalty of coercive institutions. Along with the human rights abuses committed by the military during the opposition protests that followed Mnangagwa’s election victory, this has undermined popular and international support for the regime, making the task of governing ever harder.

The security forces have also come to play a major political role in Uganda, where Museveni came to power during the prolonged Bush War (1980 to 1986). Like Mugabe, Museveni has relied heavily on his fellow fighters, who now represent the status quo through their position in the Ugandan People’s Defence Force (UPDF). In 2019, it is no exaggeration to say that Museveni’s regime relies on two main pillars: An extended quasi-royal family and a set of senior military leaders. In this sense, Uganda can be conceptualized as being governed, in part, by a military aristocracy in which the security forces are not used as set out in the constitution but as decided by the president. Under this system, prominent figures within the security forces are not bound to specific functions or sectors but are able to operate across a broad range of areas. This includes taking up positions in the national revenue authority, the board of the state broadcaster, the cabinet and as superintendents of districts (resident district commissioners). Although the constitution is clear that military leaders must retire before taking up civilian positions, active duty generals have served as cabinet ministers. Haji Abubaker Jeje Odongo, for example, was both promoted to General and appointed as the Minister of State for Defence in 2020.

20 Nicole Beardsworth, Nic Cheeseman, and Simukai Tinhu, ‘Zimbabwe: The coup that never was, and the election that could have been’ African Affairs, 2019, doi: 10.1093/afraf/adz009, <https://www.researchgate.net/profile/Nic_Cheeseman/publication/332555915_Zimbabwe_The_coup_that_never_was_and_the_election_that_could_have_been/links/5cb7e4a6fddcc1d49a5eabe/Zimbabwe-The-coup-that-never-was-and-the-election-that-could-have-been.pdf> (3 January 2020).
February 2009. Senior military figures have also been established as regional political heavyweights, tasked with delivering the support or at least acquiescence of their communities. Moreover, this process appears to have accelerated in the run up to the 2021 elections.

In contrast to the recent trend towards militarization in Zimbabwe, in Uganda the military has increasingly been subordinated to Museveni’s personal control. This was not completely the case in the period that immediately followed the Bush War, when the military aristocracy featured a number of veteran commanders who had such strong personal authority that they could operate independently of the president, to some extent. During and after the 2000s, however, Museveni moved to constrain these figures, promoting more junior fighters who had a weaker power base, and whose deference and loyalty was assured. This process culminated in the creation of the Special Forces Command (SFC) in 2008, which progressively expanded its size and capacity at the expense of regular UPDF forces, until it established de facto control of all strategic military assets. As in many other shadow states, several SFC leaders are linked to Museveni’s nuclear family through blood or marriage.

As in many shadow states, the Ugandan security forces have played an important role in the competition for political power by symbolically standing behind the president and making it clear that despite the reintroduction of multiparty politics in 2005, Ugandan citizens do not have a genuine choice over the identity of the government. Similar to Zimbabwe, one of the rewards that the military has enjoyed in return for political loyalty is the ability to extend its economic interests. Most notably, the SFC has become enmeshed in a series of economic activities that have enabled its members to amass considerable wealth. For example, the SFC is alleged to be involved in mining operations near Mount Moroto in Karamoja. Given that there is little gold produced in Uganda, it also seems likely that much of the gold that is labelled as Ugandan has actually been smuggled across the border by the Ugandan military from the DRC, South Sudan and other neighbouring countries.

The situation in the DRC is rather more complicated due to the proliferation of armed groups and the limited control over the territory by the central government. Similar to Museveni, President Laurent-Désiré Kabila came to power in 1997 as the head of a group of rebels, in this case working to overthrow the regime of then President Mobutu Sese Seko. The fragmented nature of the rebel forces, however, along with his decision to turn his back on the Rwandan allies who had supported his rise to power, meant that Kabila consistently struggled to establish effective control over the vast territory of the DRC. In particular, the support of the Rwandan government for a fresh rebellion against Kabila himself ensured that he was never able to establish authority over the eastern part of the country. Despite a peace deal being signed in 1999, Kabila remained heavily reliant on the security forces—which by this time had integrated his Alliance of Forces for the Liberation of Congo–Zaire (AFDL)—as a result of the external threats to his regime and mounting popular frustration with the government’s poor economic performance. Indeed, Kabila was so close to his kadogos (former child soldiers) that he referred to them as his children.

21 The Shadow State in Uganda, Chapter Three, this volume.
23 The Shadow State in Uganda, Chapter 3, this volume.
24 The Shadow State in Uganda, Chapter 3, this volume.
25 The Shadow State in Uganda, Chapter 3, this volume.
26 The Shadow State in Uganda, Chapter 3, this volume.
Kabila struggled to maintain the unity, loyalty and discipline of his own forces and became increasingly paranoid, in part due to growing evidence that disgruntled regime insiders were plotting to displace him. In turn, he responded to evidence and rumours of disloyalty by arresting and torturing those he suspected, and their followers, including figures such as Commandant Anselme Masasu Nindaga, a veteran commander and one of the founding members of the group that brought Kabila to power. In turn, this left Kabila increasingly reliant on family members and his most trusted lieutenants.

Despite his caution, Kabila was assassinated in 2001 by a kadogo who appears to have believed that he had betrayed their cause. He was replaced just ten days later by his son, Joseph Kabila. Although the precise involvement of the new president in the rebellion against Mobutu is unclear, he had also been a commander in the AFDL and had been appointed major general in the army by his father. Prior to taking over as president, he was the deputy chief of staff of the armed forces, and so the close relationship between the executive and the security forces continued.

Joseph Kabila’s first weeks in office were spent brokering a peace deal with the rebel groups and foreign governments that had opposed his father. The peace deal was finally signed in 2003. Despite this agreement, and the fact that he won internationally supervised elections in 2006 that were seen to be reasonably credible, the new president struggled to assert his authority. His increasingly repressive governance style and refusal to genuinely decentralize power resulted in growing popular frustration with his rule. Along with the withdrawal of international peacekeepers—16,000 of whom had been deployed to make sure that the 2006 elections passed without major incident—his regime was once again left vulnerable to insurrections from the periphery, and led to ongoing battles and skirmishes with rebel forces. As a result, the blurring of the line between military and civilian rule continued, with considerable human rights violations committed by both sides.

Thus from Mobutu’s time onward, the continuous deployment of armed forces within the country, combined with the vacuum of authority generated by weak political institutions and the ineffective enforcement of rule of law, facilitated the infusion of the security forces into all parts of Congolese life, including the manipulation of the vast natural resources in the country. As the DRC report notes with respect to gold mining: ‘When a new mining shaft is discovered or when a given shaft becomes productive, army commanders or the police set up a military post nearby. This post is rarely installed for security reasons but for tax collection and harassment purposes.’ Similar to Zimbabwe, then, the situation in the DRC serves as an important reminder that while expanding the political and economic role for the security forces helps to keep them onside and thus sustain the shadow state through force, it may also distort the economy and reduce the legitimacy of the government in ways that actually serve to make it increasingly dependent on repression.

The penetration of the economy and international linkages

Shadow states penetrate different sectors of the economy in many ways, distorting how they operate, often with negative implications for ordinary citizens. As with the involvement of the security forces, however, there are significant variations in the four case studies in terms of the extent to which the shadow state permeates the economy and the consequences that this has. In particular, the exploitation of high value natural resources such as oil and diamonds has facilitated the interaction of shadow states with multinational companies, linking domestic actors more extensively to a set of international networks.

In Uganda, for example, President Museveni’s regime benefitted from high in-flows of foreign aid during its period as a “donor darling”, before his reputation as a progressive leader was undermined.

30 The Shadow State in the DRC, Chapter 2, this volume.
by creeping authoritarianism. However, outside of this and involvement in the smuggling of high-value mineral resources out of the DRC – discussed in the next section because much of it has been done by military forces and armed rebels – the shadow state appears to have developed less extensive international financial connections than its counterparts in the DRC and Zimbabwe. Prior to the recent discovery of commercially viable oil reserves, the Ugandan economy was predominantly agricultural. While support from international donors played an important role in Ugandan economic recovery, the economic networks that sustained the shadow state were predominantly domestic. Funds for election campaigning, for example, are mainly generated by raiding the public purse and securing kickbacks from Ugandan business people.

The manipulation of public funds in Uganda has occurred through a number of different modalities, including straightforward patronage and the distribution of development funds to reward ruling party supporters, much of which occurs through the formal state. At the same time, there has been a sustained effort to raise funds through illicit economic activities and by giving business people privileged access to the corridors of power. For example, ‘The permanent secretary to the treasury, Keith Muhakanizi, is strategically placed to orchestrate the manipulation of government finances, working jointly with Kampala business person, Ben Kavuya, who is one of the biggest money lenders in the country’. Through networks such as this, those closely connected to the regime are able to amass great wealth while generating funds to support ruling party election campaigns.

In general, the penetration of the business sector is less extensive than in some of the other case studies, with a number of business leaders suggesting that so long as they do not engage in political activities against Museveni’s regime, they are largely left alone. In contrast, those who are thought to have opposition leanings or who become so wealthy that they have the potential to finance an opposition campaign—such as Charles Mbire, Patrick Bitature and Mohan Kiwanuka—are integrated into Museveni’s networks to ensure that opposition candidates do not have access to private funding. One of the ways businesses are bound to the regime is through the granting of tax exemptions, which enable companies to make inflated profits while denying the treasury valuable resources. Politically protected companies are also able to engage in criminal activities without fear of prosecution, so long as they stay in Museveni’s good books. It is well known, for example, that in the 1990s, Danze, a company set up by the ruling party, was engaged in large-scale smuggling. Moreover, as with their counterparts in Zimbabwe, UPDF officials also engaged in the looting of resources from the DRC during their presence there in the late 1990s.

As this suggests, the Ugandan shadow state has important international connections, even if these are less pronounced than in other cases. Indeed, there are already signs that the nascent mining sector and the oil sector—where production is just starting—will generate stronger ties to international economic networks over time. For example, Museveni’s half-brother Salim Saleh—a retired general—has forged strong relationships with Chinese investors, and in recent years, Chinese companies have been awarded some lucrative mining concessions. Moreover, some of Saleh’s relatives, such as his wife, Jovia Akanwanaho, have been linked to a variety of illicit cross border activities, including trade in diamonds and narcotics. Similarly, Major General Leo Kyanda, chief of staff of the land forces—a component of the UPDF—has been associated with a range of criminal activities, including armed

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32 The Shadow State in Uganda, Chapter 3, this volume.
33 The Shadow State in Uganda, Chapter 3, this volume.
34 The Shadow State in Uganda, Chapter 3, this volume.
35 The Shadow State in Uganda, Chapter 3, this volume.
36 The Shadow State in Uganda, Chapter 3, this volume.
37 The Shadow State in Uganda, Chapter 3, this volume.
robberies, fraud and trade in narcotics.\textsuperscript{38} Although Kyanda was sent to India for a year of training in 2018, which was widely seen as a punishment for his involvement in an attempt to scam a group of Polish investors, he was subsequently rehabilitated and promoted to major general.\textsuperscript{39}

Other high profile members of the Ugandan shadow state have also been linked to the narcotics trade. Most notably, July 2019 testimonies in a trial of the Kenyan–Indian Akasha brothers in the United States document the role of one of the president’s in-laws in the import of ephedrine, which is often used to produce methamphetamine, more commonly known as crystal meth.\textsuperscript{40} It is important to note, however, that this does not mean that the whole state has been criminalized or is dependent on the proceeds of illicit trade. Nonetheless it does demonstrate just how damaging the shadow state can be, in particular its capacity to undermine the rule of law, even in countries where formal institutions are relatively effective.

The fusion of political, military and business interests is also apparent in other cases in which the presence of valuable natural resources has led to the forging of deeper ties with foreign companies and economic networks. In Zimbabwe, for example, the role of the Zimbabwe Defence Forces (ZDF) in the DRC and the Marange diamond fields has played an important role in shaping the international networks of the shadow state. Most notably, the combination of smuggling and mining activities led to the formation of a set of frontier companies in collaboration with business people from a number of countries, including Hong Kong, South Africa, Oman and China.\textsuperscript{41} For example, Orxy Natural Resources, run by Thamer Bin Said Ahmed AlShanfari from Oman, was used as a front for ZDF military elites operating in the DRC.\textsuperscript{42} The system worked as follows: Orxy Natural Resources would officially own a significant proportion of a diamond concession but in reality this stake was owned by OSLEG—a military company actually run by the ZDF itself.\textsuperscript{43} In addition to enabling the ZDF to operate under the radar, and so escape international censure and domestic controversy, this relationship facilitated kickbacks for the ruling party. For example, it is known that AlShanfari provided campaign finance for ZANU PF during the 2000 parliamentary elections.\textsuperscript{44}

A similar relationship emerged with Tremalt Limited, which was owned by John Bredenkamp, a wealthy white Zimbabwean business person. Tremalt secured the rights to mine copper and cobalt reserves worth in excess of USD 1 billion and publicly fronted the business but as part of the arrangement a company owned by the ZDF received 34 per cent of company profits.\textsuperscript{45} In addition, Tremalt provided the Zimbabwean military with equipment, clothing and aircraft spare parts.\textsuperscript{46}

Having made this model work successfully in the DRC, the ZDF set about implementing it in Zimbabwe once they gained control over the Marange diamond fields in the 2000s. The majority of joint venture companies that emerged during this time had links to the Central Intelligence Organisation, including: Mbada Diamonds, the chairperson of which was Robert Mhlanga, a former air vice marshal in the Zimbabwean Air Force; Marange Resources; Diamond Mining Corporation; Anjin Investments; Jinan Mining; and Kusena Diamonds.\textsuperscript{47} This process effectively transferred control and oversight of key resources out of the hands of the treasury and the elected individuals who held the legal responsibility to provide scrutiny. For example, in 2013, a parliamentary portfolio committee on mines and energy

\textsuperscript{38} The Shadow State in Uganda, Chapter 3, this volume.
\textsuperscript{39} The Shadow State in Uganda, Chapter 3, this volume.
\textsuperscript{40} The Shadow State in Uganda, Chapter 3, this volume.
\textsuperscript{41} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{42} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{43} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{44} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{45} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{46} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{47} The Shadow State in Zimbabwe, Chapter 5, this volume.
enquiry revealed that the designated ministers did not know who selected these companies to mine diamonds. Partly as a result, some of the diamond mining companies did not make any meaningful contribution to state resources, a situation that prompted the then finance minister, Tendai Biti to complain that: ‘So, clearly there are challenges of opaqueness. Clearly, we fear as the ministry of finance that there might be a parallel government somewhere in respect of where these revenues are going, since they are not coming to us.’

Biti’s comments reflect the broader concerns of his opposition party, the MDC. That is, despite having been given a share of cabinet positions under the government of national unity that followed the disputed elections of 2008, the MDC was unable to shape some of the most important political and economic decisions because by this time they had become the preserve of the shadow state. Ironically, the power-sharing agreement itself—which had been forced on ZANU PF by the international community in return for Mugabe being allowed to retain the presidency—provided ZANU PF leaders with further incentives to invest in the shadow state as a way to remove key decisions from formal state institutions and so deny the MDC power and influence.

The economic networks that animate the shadow state in Zambia also have international connections, as the proceeds of corrupt procurement deals are often laundered through international companies, though they are less extensive than in the DRC and Zimbabwe. In particular, the last ten years has seen the growth of single sourced construction contracts, which do not go to public tender, a practice that began under former President Frederick Chiluba and is often an indicator that state officials have been paid kickbacks in return for delivering the deal to a specific company. At present, most large procurement and construction contracts go to Chinese companies, leading to growing concern that firms such as AVIC International have established a dominant position—whether they perform well—in large part because they are the preferred choice of the executive branch of government.

The system of kickbacks is hard to evidence. In a number of cases, Chinese contractors have been recorded withdrawing large sums of money in cash shortly after receiving payment, which it is believed they handed over to the state officials who arranged the contract. Significantly, this process involves the collusion of Zambian banks, as Bank of Zambia regulations state that such large sums cannot be withdrawn at short notice. Similarily problematic deals have been noted in other areas. For example, the procurement of speed cameras became embroiled in controversy after it was revealed that the deal involved a business person of Greek origin with close ties to the president transferring USD 2.7 million into an offshore account in Lebanon. Although the owner of the bank account is unknown, it was widely believed that they were intended as a kickback for Lungu himself, as the only transfer details were ‘EL’, the president’s initials.

One of the reasons that securing greater personal wealth has been such a priority for Lungu is a quirk of the Zambian political system. Having won a presidential by-election following the death of President Michael Sata in 2015, Lungu then had to contest a general election just a year later. Consequently, securing election funds was one of his top priorities. Partly as a result, his political alliance, which included figures such as Alexander Chikwanda and Willie Nsanda, was built hand in hand with a business alliance that included wealthy individuals, such as Vaulden Findlay, Gulam Patel, Mulenga Mikalile, Robinson Zulu and Josef Huwiler. Some figures traversed this divide, such as former President Rupiah Banda who, having decided to drop out of the race himself when he lost control over his party,

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48 The Shadow State in Zimbabwe, Chapter 5, this volume.
49 The Shadow State in Zimbabwe, Chapter 5, this volume.
50 The Shadow State in Zambia, Chapter 4, this volume.
51 The Shadow State in Zambia, Chapter 4, this volume.
52 The Shadow State in Zambia, Chapter 4, this volume.
53 The Shadow State in Zambia, Chapter 4, this volume.
provided Lungu with his own campaign facilities, including 60 vehicles and 3 helicopters. He also introduced Lungu to business associates based in Nigeria, who provided further funding for his campaign. In return, Lungu was expected to look after Banda’s political and economic interests. This included appointing a number of his allies to the cabinet, discontinuing the criminal cases against Banda and appointing a pliant director of public prosecutions.

As part of this process, Vaulden Findlay, a well-known business leader who came to Lungu through Banda, has increasingly played a prominent role in the president’s economic dealings. Though not a state official, Findlay has helped to negotiate Lungu’s financial deals, including a number of procurement processes that have raised questions due to their excessive cost. The most notorious of these is the recent purchase of a Gulf Stream G560 twin engine jet from Russia, which was purchased at USD 138 million despite only being valued at USD 60 million. Widespread suspicion that the deal was intended to generate personal wealth and a political slush fund for the president was heightened when it was revealed that the money was sourced from the Zambia Security Intelligence Service account, which is not subject to audit. According to one interviewee in the Zambia case study:

Findlay accommodated the head of Zambia’s intelligence services and a presidential adviser at his properties for free. People do not do that unless they get something in return. In the case of Findlay, he can be said to have complete control over the president. What we have now is a captured man.

Seen in isolation, the Zambian economic system may appear to be highly integrated into global networks but when compared to the DRC, its degree of extraversion looks relatively modest. This is both in terms of the extent to which the state systematically preys on business and in terms of the proportion of Zambian resources that are lost to smuggling across state borders, in some cases as a result of the activity of nearby shadow states. The case of the gold mining sector brings this point out well. The overlapping set of authority structures—from local state officials, militias, traditional leaders and the security forces—places an intense burden on mines. For example, mine operators in Kamituga, in the Mwenga province of the eastern DRC, must pay 40 regular fees yet only 9 are official state levies of the national government. The rest are all local creations of greater and lesser formality that result from the plethora of groups operating at the local level. Mine operators have little choice but to pay these fees because those who enforce them typically have political protection, either because they are in a political alliance with more powerful regional and national figures—who themselves receive protection from superiors—or because they feed a proportion of their takings to those above them and so feel that they have a right to exploit territory and resources. In this sense, many of these fees are imposed by groups that are operating at the fringes of the shadow state, though they may have little or no connection to the president and his closest allies.

At the same time, the DRC perhaps represents the classic case of an “extroverted” state in which figures at a range of levels—from the presidency down to local politics—sustain their position through their ability to regulate, or at the very least take a cut of, the flow of aid and trade across national borders. Revenues paid to the state from the formal extractive sector represent a critical source of government revenue, representing 98% of exports in 2016 and contributing between USD 1.13 billion and USD 1.7 billion to the economy between 2011 and 2016. Comparable amounts also leave the country illegally and so sustain a range of actors, including Congolese politicians and the army, the

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54 The Shadow State in Zambia, Chapter 4, this volume.
55 The Shadow State in Zambia, Chapter 4, this volume.
56 The Shadow State in Zambia, Chapter 4, this volume.
57 The Shadow State in Zambia, Chapter 4, this volume.
58 The Shadow State in Zambia, Chapter 4, this volume.
59 The Shadow State in Zambia, Chapter 4, this volume.
60 The Shadow State in the DRC, Chapter 2, this volume.
rebel groups that they sponsor, and the rebel groups that oppose them. According to a report by the United Nations’ Panel of Experts, about 70% of gold currently leaves the country via Uganda for Dubai, which is an attractive destination given the limited regulation, which means that ‘informally mined gold can be legally imported, tax-free’.\(^1\) This reflects a broader trend across the continent, in which greater transparency and regulation of banking systems and so called “tax havens” in Europe and beyond has increased the illicit financial flows heading to Dubai.\(^2\)

While a considerable proportion of the resources that flow through Dubai and places like it are lost to rebel armies and neighbouring governments (and in some cases neighbouring Shadow States), many are channelled back into the Shadow State itself, in some cases being used to fund election campaigns and patronage networks, in others fuelling private consumption. This is not accidental but rather a deliberate consequence of government policy. According to Global Witness, deliberate efforts to create weak structures of governance and transparency ‘increased the potential for corrupt political elites to benefit personally from their country’s assets’.\(^3\) In this way, it is decisions made by the official state that enable the Shadow State to flourish. Thierry Boliki, the director of the Center of Expertise, Evaluation and Certification of precious and semi-precious mineral substances, whose job it is to value and register high-value minerals, accepts that illegal flow of resources across the country’s borders is ‘worrisome’ but points out that ‘we have very little leverage to stop it’.\(^4\)

The varying economic penetration, international extraversion and scope of the shadow state in the four countries—the DRC, Uganda, Zambia and Zimbabwe—have very different implications for the overall level of corruption and for the impact these networks have on development. Nonetheless, there is considerable evidence that in all four countries shadow state activities have worsened poverty and inequality, and undermined government willingness and ability to promote development.

4. What is the impact of the shadow state?

In all four countries there is evidence that the existence of a shadow state has facilitated corruption, undermined the provision of public services and weakened accountability mechanisms. It is therefore clear that these networks have profound implications for both development and democracy. On the development side, reduced investment in public goods and excessive concentration of wealth in the hands of a small network has led to high levels of inequality and poverty (table 2). In terms of democracy, the shadow state actively works to undermine the potential for political change, undermining the ability of voters to change the government if it underperforms (table 3). This blunts the potentially transformative impact of multiparty elections and—in addition to limitations with the formal structure of the state itself—helps to explain why political change has been rare in these countries. In turn, weak accountability mechanisms, combined with the ability of unpopular leaders to use the shadow state to ensure re-election, means that the government has fewer incentives to make sure that the economy works in the interest of the average voter.

The impact of the shadow state is not uniform, however. Impact depends on the strength and scope of the shadow state. More focused and contained shadow states, as in Uganda and Zambia, appear to

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have had a less pronounced impact on democracy and development. Zambia, for example, has already experienced two transfers of power, the first in 1991 and the second in 2011. Where the shadow state is so pronounced it could even be said to dominate the formal state, as in the DRC, the implications for accountability and inclusive growth are far greater. Alongside these observations, it is important to note that measuring the impact of the shadow state is extremely difficult because the full extent of the shadow state is not known. Consequently, it is difficult to work out exactly what policy decisions would have been made differently in its absence.

Development

All four countries rank very poorly in the Human Development Index, with a low of 179 (out of 189 countries) in the DRC and a high of 143 in Zambia (Table 2). This disappointing performance has multiple drivers, including the problematic legacy of colonial rule, economic mismanagement in the 1970s and 1980s, and the negative impact of political instability. In each case, however, there is also strong evidence that the existence of a shadow state has played into and exacerbated these factors, and in some cases has actually driven them. These negative externalities typically occur as a result of three related processes. The first is the creation of a culture of impunity that facilitates corruption and diverts resources away from productive investments. The second is the manipulation of government expenditure to sustain the patronage networks of the shadow state and ensure its political survival. The third is the creation of monopolistic or oligopolistic conditions that increase prices and enable companies with links to the shadow state to make excessive profits.

Zambia provides an excellent example of how the shadow state can facilitate the misappropriation of state funds and undermine development efforts. According to the Financial Intelligence Centre, in 2018, ZMW 6.1 billion (USD 470 million) was lost to tax evasion, corruption, theft and fraud. In the vast majority of cases, these abuses were conducted by individuals who enjoyed a politically protected status due to their position within the shadow state. In a context in which public servants face routine delays to the disbursement of their pay and public services are chronically underfunded, it is estimated that around ZMW 4.9 billion (USD 375 million) of government revenue ended up funding luxury lifestyles for a small number of politically connected individuals. The diversion of resources away from public services has a particularly negative impact on the poor, who have little capacity to pay for private provision of the services they require.

Table 1.2. The Human Development Index and key indicators in the four states

<table>
<thead>
<tr>
<th></th>
<th>DRC</th>
<th>Uganda</th>
<th>Zambia</th>
<th>Zimbabwe</th>
</tr>
</thead>
<tbody>
<tr>
<td>HDI Rank (out of 189)</td>
<td>179</td>
<td>159</td>
<td>143</td>
<td>150</td>
</tr>
<tr>
<td>HDI score (2019)</td>
<td>0.459</td>
<td>0.528</td>
<td>0.591</td>
<td>0.563</td>
</tr>
<tr>
<td>Life expectancy</td>
<td>60</td>
<td>60.2</td>
<td>62.3</td>
<td>61.7</td>
</tr>
<tr>
<td>Expected school (years)</td>
<td>9.8</td>
<td>11.6</td>
<td>12.5</td>
<td>10.3</td>
</tr>
<tr>
<td>GNI per capita (USD)</td>
<td>796</td>
<td>1,658</td>
<td>3,557</td>
<td>1,683</td>
</tr>
</tbody>
</table>

* A Gini index of 0 represents perfect equality. An index of 100 implies perfect inequality.


In other cases, the shadow state has been directly implicated in the onset of economic crisis. For example, recent economic difficulties in Zimbabwe have been underpinned by a currency crisis and rapid inflation—made worse by chronic fuel shortages. While the government tends to present these

65 The Shadow State in Zambia, Chapter 4, this volume.
challenges as the inevitable consequence of international sanctions, they have been exacerbated, and in some cases driven by, the practices of the shadow state itself. The rapid inflation that has pushed up the price of food and undermined confidence in the currency is in part caused by the participation of politically connected business elites and private companies in illegal currency exchange. The events of 19 September 2019 demonstrate this well. On that day, the official exchange rate began at 1:14 to the US dollar, with 1:16 quoted on the parallel market. By midday, the parallel rate had shot up to 1:23 and would continue to rise 1:30 the next day, undermining the official exchange rate and eroding the value of the currency. This spike occurred because companies linked to the president and military elites, fearing a currency collapse, used their protected political status to illegally purchase a vast amount of US dollars on the parallel market, fuelling higher exchange rates. Although President Mnangagwa later acted to bring the situation under control, instructing the Reserve Bank of Zimbabwe to freeze any further transaction from Sakunda, Access Finance, Spartan Security, Croco Motors and related entities, the damage had already been done.

Similar companies have also been implicated in the fuel shortages that have caused problems for commuters and undermined the performance of the Zimbabwean economy. Due to their political connections, Sakunda Holdings and other companies with military connections have been able to establish control over the sale of fuel but have failed to import the necessary amount. While it is estimated that the country needs around 100 million litres per week, Sakunda was importing 20 million. With only a further 25 million litres coming from other suppliers, this meant that the country only had half the fuel it needed. These shortages were artificial: The South African company, Mining Oil & Gas Services, had the potential to bring in around 100 million litres a week but was refused permission to operate in order to sustain the monopoly enjoyed by shadow state actors. In turn, artificial fuel shortages enabled Sakunda to make inflated profits due to rising prices. In January 2019, Zimbabwean petrol was the most expensive in the world at USD 3.31 per litre. In this way, the shadow state inflicted considerable economic distress on ordinary Zimbabweans while further enriching its members.

Shadow states also have a track record of distorting development priorities in order to gain an advantage in electoral contests. One of the key activities of these networks is to ensure the survival of the shadow state, which means, among other things, securing sufficient funds to enable the ruling party to run an effective election campaign. The Ugandan case study demonstrates this point well. In both 2011 and 2016, excessive spending both by formal ministries and through the siphoning off of funds to the ruling party through business networks embedded in the shadow state gave President Museveni a tremendous advantage. The network between senior political figures and business elites—and the ability of companies to make the large profits needed to support the presidential election campaigns—is sustained through the provision of tax exemptions. Most notably, Dott Services, an Indian-owned construction and engineering company with links to the Museveni family, has been able to boost its profit margin due to exemptions granted by the executive branch. In return, companies integrated into the shadow state are expected to help the ruling party to meet its campaign costs.

According to the Ugandan branch of the independent NGO SEATINI (Southern and Eastern African Trade, Information and Negotiations Institute), in 2017–2018, the tax waivers issued by the
government were worth more than USD 400 million, effectively denying much-needed funds to the treasury.\textsuperscript{74} Despite the vast sums involved, a parliamentary investigation found that in the majority of cases there were little legal or other grounds for tax exemptions to be granted. The combined impact of these activities has had a significant impact on developmental outcomes. On the one hand, the revenue lost through exemptions could have been used to fund projects to strengthen infrastructure and provide public services in the country. On the other, the manipulation of development programmes for political ends diverts government expenditure from where it is really needed. For example, ‘the vast funds spent on Operation Wealth Creation and the Youth Livelihood Funds barely achieved any of the intended developmental impact but instead further entrenched the culture of commercialization of politics’.\textsuperscript{75} The raiding of the public purse also had long-term implications for macroeconomic stability. In 2011, for example, the regime effectively funded its activities by having the central bank print more money. As a result, inflation skyrocketed around the elections, causing considerable problems for ordinary citizens who were unable to afford fuel and food.\textsuperscript{76}

There is also clear evidence of the negative impact of the Shadow State on development in the DRC. In addition to the chaotic and exploitative impact of multiple levies on mine operators that has also been discussed, the Shadow State has enabled prominent political leaders to divert economic resources away from the Treasury and into the hands of a small elite. According to Transparency International, the DRC was one of the 20 most corrupt countries on the planet in 2018. It is impossible to calculate the total amount of missing revenue, but Global Witness estimates that at least $750 million was lost from the mining sector between 2013 and 2015 alone.\textsuperscript{77} Partly as a result, key ministries such as education and health are starved of funds. In 2015, the government spent less than $20 per person on healthcare – the second lowest amount in the world behind the Central African Republic. In turn, this helps to explain why the DRC is simultaneously the wealthiest country in our sample in terms of natural resources yet the one with the lowest life expectancy.

Although the shape and extent of the shadow state varies across the four cases, certain themes are common to all: politically connected economic actors are given privileged access to contracts and resources in order to make enough profit to fund personal consumption and regime maintenance. The hijacking of the economic for personal and political ends results in under investment in public services and infrastructure, and often contributes to periods of economic crisis such as inflation and fuel shortages. The longer-term impact of these processes includes a growing gap between the rich and poor and bouts of economic instability. Although with the politicized and predatory nature of the economy, these developments have the potential to deter foreign investors, or at least the kinds of foreign investors unwilling to deal with the shadow state.

\textit{Democracy}

All four countries are examples of competitive–authoritarian states in which elections are held but many political rights and civil liberties are not respected. According to the Democracy Index of the Economist Intelligence Unit, the DRC is one of the least democratic states in the world (ranking 165 out of 167) and even the most democratic state in the sample, Zambia, ranks only 86 (Table 3). Of the numerous elections that have been held in these countries since the reintroduction of multiparty politics, there have been only four transfers of power, and none in Uganda and Zimbabwe. Moreover, of these four, the recent transfer of power from Joseph Kabila to Félix Tshisekedi in the DRC did not

\textsuperscript{74} The Shadow State in Uganda, Chapter 3, this volume.

\textsuperscript{75} The Shadow State in Uganda, Chapter 3, this volume.

\textsuperscript{76} The Shadow State in Uganda, Chapter 3, this volume.

represent the defeat of the ancien regime. Rather, the poll was rigged so as to hand victory to an opposition candidate who had not won the election but who could be trusted to protect the interests of the shadow state.  

**Table 1.3. Democracy ratings and transfers of power in the four states**

<table>
<thead>
<tr>
<th>Transfers of power</th>
<th>DRC</th>
<th>Uganda</th>
<th>Zambia</th>
<th>Zimbabwe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democracy Index Score**</td>
<td>1*</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>1.49</td>
<td>5.20</td>
<td>5.61</td>
<td>3.16</td>
<td></td>
</tr>
</tbody>
</table>

* Although there was a transfer of power, in effect the shadow state managed the political transition in its own interests
** Out of 10, where 10 is the most democratic.


As with development, there are many complex drivers for the lack of democracy in these countries some of which are not directly related to the Shadow State itself, including problematic colonial legacies, weak civil societies and a refusal of successive political leaders to tolerate dissent. The shadow state therefore should not be regarded as the sole cause of democratic malaise or even the main cause in some countries. At the very least, however, it seems clear that the networks described above have enhanced the advantages already enjoyed by the ruling party. There are four main mechanisms through which this occurs.

First, the economic advantages conferred the shadow state enable the ruling party to comprehensively outspend its opponents in the vast majority of cases, due to the donations raised from allied businesses, as has already been documented in the cases of Uganda and Zimbabwe. Second, the security forces and non-state militias are used to intimidate and demobilize opposition supporters. Third, members of the security forces are often asked to operate outside of their official duties; for example, by conducting logistical operations for the electoral commission, which enhances the control of the shadow state over the process. Finally, senior judges aligned with the shadow state play an important role in rejecting election petitions brought by opposition parties, even when there appears to have been considerable evidence of malpractice. Taken together, this means that the shadow state can strengthen a number of the most powerful tools in the ‘menu of manipulation’ available to a president.

By increasing the resources available to the ruling party, the government can establish a built-in electoral advantage. A further implication of the way that the shadow state can exert control over key sectors of the economy is that opposition leaders can find it particularly difficult to secure finance, either by forming successful companies or by taking out bank loans. This is significant because opposition leaders are less likely to be able to build the broad coalitions they need to secure victory where access to credit is low. Opposition parties also find themselves starved of oxygen in countries where the national broadcaster and many of the radio, television and newspaper networks with a genuinely national reach are either state run or in the hands of individuals with shadow state connections. In short, such control of the media means that opposition candidates and parties have no voice.

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The shadow state may also undermine democracy in other much more direct ways. In Uganda, for example, the close relationship between the UPDF and the ruling party has led to human rights violations both inside and outside the country. In the late 1990s, at a time when General Kayihura was head of the police, UPDF excursions into the eastern DRC in search of illicit business opportunities often went hand in hand with violent crime. In some cases, this has simply involved official forces abusing their positions but on a number of occasions it is believed that UPDF members colluded with other militias and non-state actors to perpetrate murders and run an extortion racket. In Uganda, the high profile assassination of prominent figures, including Muslim clerics, politicians, senior police officers and even a judge, demonstrate just how widespread the culture of impunity has become.

As a result, ‘security actors with shadow state links benefit from a culture of impunity, undermining the security they are mandated to keep’.

Around elections, the UPDF has frequently been deployed to harass opposition supporters, and demobilize opposition rallies and post-election protests. The government has rarely been willing to rely on the UPDF alone, however, and has instead supplemented its role by mobilizing non-state militias. Ahead of the 2016 elections, for example, the government announced the creation of the crime preventers, a new group that was recruited from the citizenry by the state but was not given an official status as part of the security forces. Although the government argued that the role of the crime preventers was simply to promote law and order, human rights organizations alleged that the intention was to further penetrate local communities in order to identify and target opposition supporters. In this way, the (mis)use of the security forces, the mobilization of militias and the blurring of the line between the two has enabled President Museveni’s government to intimidate opponents and keep itself in power for almost two decades.

Similar processes have been observed in Zimbabwe, where the active involvement of the military and security forces in elections has closed off political space for almost two decades. Most notably, the military emerged as an important veto player ahead of the 2002 general elections. At that time, the defeat of the government in the referendum of 2000, along with the surge in popularity for Morgan Tsvangirai and the MDC, suggested that a transfer of power could be on the horizon. Just two months before the polls, however, Commander Vitalis Zvinavashe, flanked by other members of the Joint Operations Command, publicly declared that the military would ‘only stand in support of those political leaders that will pursue Zimbabwean values, traditions and beliefs for which thousands of lives were lost in the pursuit of Zimbabwe’s hard won independence, sovereignty, territorial integrity and national interests’. In other words, the military was only prepared to salute the incumbent, Robert Mugabe, and would reject Tsvangirai, who had no liberation struggle credentials.
Over the next 15 years, a combination of the security forces and state-sanctioned militias effectively harassed and intimidated opposition supporters and leaders. The most prominent militia was the war veterans of the liberation struggle that Mugabe had previously sought to demobilize as a source of potential instability but now deployed as a weapon. As in Uganda, in Zimbabwe this process involved blurring the lines between the official security forces, security force members operating out of uniform and violent gangs. Around the 2002 election, for example, the military and the Central Intelligence Organisation provided essential logistical support to the war veterans. A similar combination was deployed, with the addition of gangs of thugs recruited at the last minute, to unleash a wave of violence against the opposition ahead of the second round of voting in the 2008 presidential elections. Having won the most votes—and some believe an outright majority—in the first round of voting, Tsvangirai was on course for victory before the intensity of the repression forced him to withdraw.\textsuperscript{92}

The situation is somewhat different in Zambia, where the much less prominent role of the military, combined with the strength of civil society organizations, such as the church and trade unions, has facilitated the emergence of a more competitive political system. Not only did a coalition of opposition parties, civil society groups and disgruntled members of the ruling party prevent President Frederick Chiluba from securing an unconstitutional third term in office in 2001 but the two dominant political parties of post-independence era, the United Party for National Development (1964–1991) and the Movement for Multi-Party Democracy (1991–2011) were both forced to accept defeat at the ballot box after gradually losing popular support. In this more competitive context, it has been the judiciary that has played an important role in the efforts of the ruling party to retain power. This is well illustrated by the highly controversial 2016 general elections, which were officially won by the incumbent, Edgar Lungu. Following the elections, which saw considerable delays in the counting process and accusations of rigging from the opposition, the constitutional court prevented petitions against the result from being heard in a process that was widely interpreted as demonstrating political bias.\textsuperscript{93}

According to one interviewee who worked for the Zambian electoral management body, the result was manipulated in a way that ‘seems to have been organized and coordinated’. In Lusaka, for example, there was some evidence of manipulation in all seven constituencies. Had this been presented publicly, it would have been extremely embarrassing for the government and would have supported opposition claims that the election should be re-run. Despite these limitations, the case was never heard. Having adjourned on a Friday so that the case could be continued on the Monday, the decision of a number of judges that there was not actually enough time to hear the petition meant that it was effectively jettisoned over the weekend. It was not clear on what basis the judges had changed their minds but the decision was widely interpreted as having been dictated by the shadow state, as all the justices had been nominated by the president. The Judicial Complaints Commission later confirmed that due process had not been followed, finding that the constitutional court had not exhausted the 14 days provided for in the constitution and had instead dismissed the proceedings on day 10. The commission also found that the constitutional court had incorrectly interpreted articles 101 (5) and 103 (2) of the constitution. Yet despite this damning conclusion, no action was taken against the judges concerned.\textsuperscript{97}

\textsuperscript{91} The Shadow State in Uganda, Chapter 3, this volume.
\textsuperscript{92} The Shadow State in Zimbabwe, Chapter 5, this volume.
\textsuperscript{93} The Shadow State in Zambia, Chapter 4, this volume. See also, Sishuwa Sishuwa, ‘Zambia’s 2016 elections: is a disputed outcome now inevitable?’, \textit{African Arguments}, 1 June 2016, <https://africanarguments.org/2016/06/01/zambias-2016-elections-is-a-disputed-outcome-now-inevitable/> (3 January 2020).
\textsuperscript{94} The Shadow State in Zambia, Chapter 4, this volume.
\textsuperscript{95} The Shadow State in Zambia, Chapter 4, this volume.
\textsuperscript{96} The Shadow State in Zambia, Chapter 4, this volume.
\textsuperscript{97} The Shadow State in Zambia, Chapter 4, this volume.
The combined effect of different aspects of the shadow state on the quality of democracy can therefore be profound. In addition to conferring a great financial advantage on the ruling party and creating impunity for those accused of human rights abuses, the intimidation of opposition party leaders and supporters, distortion of media coverage, and infiltration of key democratic institutions such as judiciaries and electoral commissions undermines accountability and enables unpopular governments to remain in power.

5. Conclusion and policy considerations

What can be done about the shadow state? Fighting back against the shadow state is complicated because it has the potential to undermine precisely those mechanisms that civil society groups and international donors would normally harness to pursue reform. Publicizing the activities of the shadow state is difficult because in many cases it is hard to collect compelling evidence. Even when this can be done, the media may simply not report stories that embarrass the government if key newspapers and broadcasters are state-owned or controlled by figures that are connected to the Shadow State itself. Moreover, even when ownership is less problematic, media houses are likely to face considerable censorship and repression and if they carry stories that embarrass prominent figures. According to Freedom House, the press is “not free” in the DRC, Zambia and Zimbabwe and only partly free in Uganda.  

At the same time, civil society organizations and individuals seen to be a threat to the shadow state may also be subject to intimidation and harassment, especially where the security forces have been heavily politicized. Taking members of the shadow state to court is also likely to be very difficult in circumstances where senior judges have been recruited by the shadow state in order to guarantee impunity. Reducing the scope and influence of the shadow state is therefore likely to require concerted efforts by a coalition of domestic and international actors to document evidence of abuse, share this evidence widely and use a combination of domestic and international levers to disincentivize the abuse of power. This will be easier in countries such as Uganda and Zambia, where parts of the political system have yet to be captured. It will be harder where the formal institutions of the state are both subverted and weak, as in the DRC and increasingly Zimbabwe.

Transparency

In order to combat the negative impacts of the shadow state, more information is needed regarding how it operates and who is involved. This series of reports represents a first effort in this direction but much more work needs to be done by investigative journalists, researchers and academics to uncover and analyse this information. Supporting this kind of research is not easy. It is time intensive and often dangerous, and so requires considerable funding and brave individuals. It is therefore imperative that organizations with the capacity to fund researchers and to protect them begin investing more heavily in this area in order to better understand the extent of the Shadow State’s impact on democracy and development, and what can be done about it.

To date, a number of bodies, including the Open Society Foundation, International Crisis Group, Human Rights Watch, MiningWatch and Amnesty International, have done excellent work documenting aspects of the shadow state. Because they tend to work on particular issues, for example civil society, the risk of political instability, human rights abuses and illegitimate resource extraction, there is a tendency for research to be siloed. One consequence of this is that some of the underlying

connections between different sectors—and hence the extent of the shadow state and its capacity to reproduce itself—are often overlooked. This is problematic as it encourages the scope and significance of the shadow state to be underestimated.

Ideally, the findings of such research would be shared via domestic media, including newspapers, radio and television. Given the potential difficulty of publishing through domestic news sources, however, it may be necessary to share this information via social media and international media. Platforms such as WhatsApp are encrypted and thus offer considerable anonymity to users. Sharing information in this way can raise public awareness both domestically and in the diaspora, which can increase the pressure on political leaders to abide by the rule of law.

At the same time, international media offer a valuable outlet both because most sources are easily accessible online and also because their owners and editors are less likely to be susceptible to pressure from shadow state players. Domestic media sources perhaps would find it less threatening to republish an article or investigative piece once it has already appeared elsewhere, facilitating the flow of news back to the national audience. In this way, the activities of the shadow state can be communicated to a variety of audiences, despite the efforts of state censors.

Researching and publishing information that aims to render the shadow state more transparent will not make any difference on its own but it will help to put these issues on the domestic and international agenda. This represents a vital first step in mobilizing domestic and international actors to campaign for change.

**Domestic pressure**

Where it is safe and feasible to do so, it is also imperative that opposition parties and civil society groups build public support for action. The strategies that will be most effective will vary depending on the pressure points of the particular government and the resources available to pro-democracy forces. The four case studies in this series on the shadow state nonetheless suggest three key lessons that domestic activists and opposition parties should take into account.

First, the embedded nature of the shadow state means that fighting back will be a long and drawn out process. To be effective, domestic groups need to form broad coalitions of like-minded individuals, seeking out those who have not yet been co-opted to build the most effective and resilient alliances possible. It is important that this not be the sole preserve of political opposition parties and instead encompasses a wide range of civil society groups that are able to lend different organizational structures and sources of legitimacy to the struggle. Given their membership and moral authority, religious leaders could play a critical role in this process, presuming they have not already been co-opted by the shadow state. Where they are able to exert economic influence, trade unions and business associations could also be important (bearing in mind the co-opted proviso). Mobilizing individuals with a broad range of skills is equally critical. If activists intend to go to the streets to campaign about particular issues, it is important that they are connected to networks of lawyers who can work to secure their release if they are arrested. In Zimbabwe, for example:

Civil society, the MDC [Movement for Democratic Change] Alliance and other political opposition parties, the ruling ZANU PF [Zimbabwe African National Union Patriot Front] party, churches, labour unions, academia, students and business leaders must come together to craft an all-inclusive national civilian pact on the need for demilitarization of the polity and the reinstallation of democracy. A broader consensus among democratizing forces will not only expose the problem but also make it a national issue.  

99 The Shadow State in Zimbabwe, Chapter 5, this volume.
Shadow states are often highly effective at undermining popular movements but often lack the capacity to easily retain control if they face multiple challenges at the same time.

Second, it is important to build public support for reform by demonstrating the impact that the shadow state has on the everyday lives of people. Due to the lack of publicity as to its activities, it is often not clear to people exactly how the activities of shadow state networks impact on their standard of living. Consequently, it may not be fully clear to citizens exactly how much development is lost, especially if the media is heavily censored. Finding ways to tell this story with reference to immediate and pressing hardships can help to bring the lesson home. In Zimbabwe, for example, it is important that ordinary citizens understand that the currency and fuel problems that the country faces are not simply the result of international sanctions, or the unpredictable outcome of global markets, but rather have been driven by the activities of groups such as Sakunda Holdings that are embedded within the shadow state.

Third, domestic groups must be careful not to create the impression that they are doing the work of outside powers. While alliances between civil society groups and donors are to be expected given their shared interests and historical funding patterns, shadow state governments have proved to be particularly adept at manipulating this relationship to brand their opponents as traitors willing to sell out national sovereignty to foreign powers. This trope is particularly effective in countries where the memory of the liberation struggle against colonial rule is fresher, such as in Zimbabwe. There has also been a growing backlash against efforts to promote what are perceived to be western norms more generally. A prime example is the willingness of a number of African governments to call into question the legitimacy of the International Criminal Court on the basis that it is an illegitimate western institution unfairly targeting African leaders; for instance, as during the prosecution of Kenyan President Uhuru Kenyatta and Deputy President William Ruto.100

Indeed, one of the most worrying trends of the last few years has been the rise of anti-civil society organization legislation, through which repressive governments seek to muzzle critical voices by introducing tighter regulations and limiting the proportion of funds that NGOs can receive from outside the country. One of the main justifications for this legislation is that civil society groups are not legitimate because they are doing the bidding of international rather than national constituencies. Against this backdrop, it is essential that campaigns to reform the shadow state are led by domestic voices and draw on local political traditions, ideas and resources in order to demonstrate that they are not simply responding to western concerns and that the abuse of power goes against local norms and values. While international actors have an important role to play, they are likely to be most effective when they adopt a supportive rather than leading position, and carefully calibrate their activities so that they do not overshadow and undermine the efforts of domestic groups.

Popular pressure will not be sufficient to reform entrenched shadow states on its own. The democratic deficit in many of the countries where the shadow state is strong means that popular disapproval will not necessarily translate into a change of government or force those in power to change tack. Especially in countries where transfers of power have occurred, as in Zambia, presidents know that losing popularity is politically risky. At the very least, it makes it considerably more difficult to manipulate elections in order to retain power. Building popular understanding and support for change can therefore provide leaders with a powerful incentive to moderate their behaviour. It is also likely to be an important first step towards constructing more effective broad-based alliances for reform in the future.

International pressure

It is important not to exaggerate the significance of international actors in Africa. In countries that are large and resource rich, such as the DRC, foreign governments have often failed to be able to control events on the ground. Even in the case of more aid dependent states, the impact of the international community may be undermined by a lack of consensus between key actors and the growing ability of African leaders to play off different development partners against one another in an increasingly multipolar world.

Nonetheless there are a number of ways in which the international community can impact the way that the shadow state operates, especially given the fact that many of these networks depend on multinational companies and international brokers to move and launder money. This should not only be seen as a developmental strategy but also as a moral imperative. After all, when multinational companies and foreign banks benefit from their relationships with shadow states, they are effectively profiting from the exploitation of state resources in another country. Moreover, aid agencies and international donors who believe their resources are enhancing development and democracy need to think long and hard about whether, by providing funding to governments in countries such as Zambia and Uganda, they are inadvertently helping to sustain precisely the private networks that undermine the potential for more inclusive, effective and accountable government.

There are four main strategies that international actors can pursue to restrict the activities of shadow states in Africa. The first is to continue to support pro-democracy movements and organizations across the continent. Waning rhetorical commitment to international democracy promotion has in some cases been accompanied by falling investment in civil society groups and democratic institutions; for example, most notably in the United States, following the election of Donald Trump as president. Not only is this demoralizing for civil society organizations but it will only facilitate the growth of the shadow state. This is not only unfortunate but also self-defeating because it is likely to undermine any investments in democracy and development that donors continue to make.

In addition to providing continued support, donors need to become smarter about how democracy aid is delivered. One of the most worrying aspects about the recent rise in anti-NGO legislation is that in many countries it has been triggered by a spike in foreign funding to civil society groups. It is therefore critical that financial assistance is provided in a way that is not seen to simply further the interests of external parties and instead follows a genuine effort to mitigate the risk of backlash. For example, this could be accomplished by packaging an increase in civil society support as part of a broader set of investments, some of which have positive implications for the government, such as the provision of high-profile development programmes.

The second way that the international community can help push back against the rise of the shadow state is to lobby governments to respect the rule of law, and to refuse to disburse aid and other forms of financial assistance to governments that are known to have involvement in human rights abuses, extensive corruption and the transfer of power to unelected networks. Many of the regimes covered in this series of reports are desperate for an economic recovery package to enable them to maintain public spending and to paper over years of economic mismanagement. It is important that they do not receive this support unless there has been a genuine commitment—including concrete reforms—that demonstrates the existence of the political will needed to turn things around. As already noted, these strategies are likely to be more effective if they are communicated firmly but privately. This is important both to protect domestic groups from authoritarian attack, and to avoid the relationship between the government and foreign powers deteriorating to the extent that international actors lose all traction. It will also be important to the success of such an initiatives that foreign governments are not seen to be hypocritical, which in turn means that there should be a concerted effort to increase
transparency and tighten financial regulation around the world – including in donor countries and important new players such as Dubai.

An alternative way of achieving a similar goal in the economic sphere is for international actors to play a leading role in establishing better standards when it comes to transparency in the sourcing and trade of high value minerals. Some reform efforts have made progress in this regard, such as the Extractive Industry Transparency Initiative (EITI), which has so far led to 31 countries disclosing a total of more than 900 contracts in the oil, gas and mineral sectors.101 The DRC has signed up to this initiative, and while not all relevant contracts have been disclosed and the situation remains extremely challenging, as set out above, some progress has been made. For example, EITI notes that in its 2014 report that, ‘Most of the 105 mining companies provided full disclosure of their legal and beneficial owners.’102 In 2018, ‘DRC EITI and stakeholders engaged in the process were instrumental in including provisions related to transparency in the revised Mining Code’, with over 140 contracts available via the Ministry of Mines website and evidence that routine disclosures were increasing.103 While there remains a very long way to go, programmes such as this may create fresh opportunities for civil society groups to scrutinize economic activity: ‘Through the EITI process, companies, government and civil society organizations meet regularly to determine whether companies are paying their dues and whether these payments are being transferred to the state treasury.’104

Some progress has also been made in other areas due to like-minded initiatives, such as the International Tin Research Institute (ITRI) Tin Supply Chain initiative (iTSCi), which seeks to ‘create responsible mineral supply chains that avoid contributing to conflict, human rights abuses, or other risks such as bribery’.105 While, large amounts of resources continue to leave the country illegally, iTSCi argues that the local mining communities that work at Congolese mines which have adopted its tagging, on the ground evaluation and audit procedures—such as at the Kalimbi mine in South Kivu—have benefited from greater transparency and higher prices.106 Further gains in transparency and accountability can be realized by financially supporting the expansion of these schemes, committing to following their rules and encouraging the emergence of new schemes to cover other exports, such as gold.

The final option available to international actors is to use the powers available to them to monitor and police activity that traverses their own borders in order to constrain the international networks of the shadow state. This might involve investigating the western companies accused of facilitating corruption, freezing the assets of individuals and companies known to be involved in human rights abuses and the diversion of state resources, and using targeted sanctions to encourage influential figures to push for reform. There has been considerable movement in this direction over recent years, both in terms of increasing the transparency of tax havens and in targeting corrupt networks by bringing cases in jurisdictions through which the proceeds of corruption flow, thus circumventing

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101 EITI, ‘DRC Overview’, 17 October 2019, <https://eiti.org/democratic-republic-of-congo> (3 January 2020). EITI is a voluntary agreement whereby corporate, government and civil society representatives meet to scrutinize independent audits to ensure that the sums the extractive companies claim to have paid to the state match the sums the government claims to have received.


105 ITSCI, ‘What is ITSCI’, n.d., <https://www.itsci.org/purpose/> (3 January 2020). The ITSCI was designed by the ITRI in 2009 and has been providing a means of determining the origins of 3T and documenting the trading chain of these minerals by tagging and bagging 3T loads at the mining sites or postes d’achat (trading posts), counting offices (comptoirs) and mineral depots.

poorly funded and politically compromised courts in the country in question. In 2007, for example, former Zambian President Frederick Chiluba was found guilty of corruption in a London court and, along with 19 others, ordered to pay back USD 46 million to the Zambian state. The prosecution, which was brought in conjunction with Zambian officials, targeted Chiluba’s lavish spending in a number of European states, demonstrating that it was considerably beyond his means.

Chiluba was later acquitted in a highly controversial decision by the High Court in Zambia – which ruled that the London judgement could not be used in Zambia itself – and his death in 2011 cut short the ongoing legal battle, ensuring that the full amount was never recovered. Despite this, a report published the same year concluded that an anti-corruption taskforce set up by the government in 2002 to investigate Chiluba and his allies had realised USD 20 million of the USD 50 million that it had identified ‘in either cash or assets, including real property, planes, and boats’. Subsequent prosecutions in other countries have met with even greater success. In 2014, for example, a four-year investigation by the UK Serious Fraud Office exposed the corrupt relationship between officials of the Kenyan election commission and the British printing firm Smith and Ouzman, which was found to have paid kickbacks in return for winning lucrative tenders to print ballot papers. Not only was the owner of Smith and Ouzman, Nicholas Smith, sent to prison for three years but the UK anti-corruption agency was also able to return GBP 349,057.39 (USD 450,000) to the Kenyan state—the total amount of bribes that had been paid.

A related strategy employed by the United States government has been to levy individual sanctions against those suspected of mass corruption, human rights violations and criminal activity. This approach, which was utilized by the Obama administration to target individuals in the DRC and Zimbabwe, has the advantage of punishing those involved rather than the whole country, and of being comparatively low profile. It is difficult to assess the impact of this tactic but it clearly provides influential individuals with an additional incentive to moderate their behaviour.

All of these efforts, however, are likely to be ineffective unless they are enforced by a number of countries at the same time. If a small group of states moves to clamp down on money laundering while many others do not, corrupt financial networks will simply move rather than close down. This means that coordination is important both between western states and between them and other countries that are playing an increasingly significant role in financial systems in Africa, such as the United Arab Emirates and Saudi Arabia. It also means that coordination between international actors and regional players is necessary, including the African Union, economic communities such as ECOWAS and regional hegemons – i.e. countries with far-reaching political and economic influence in their own neighbourhoods such as Nigeria and South Africa. In the case of Zimbabwe, for example, South Africa has long played an important brokerage role between the international community and the ZANU PF regime. Indeed, it seems likely that Mugabe’s time in power in Zimbabwe would have ended much earlier had it not been for South African support for quiet diplomacy that may have led to a power-sharing agreement with the opposition between 2008 and 2013 but also enabled Mugabe to retain the presidency.

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Of course, one of the most significant challenges the international community faces is that in some cases regional hegemons themselves feature powerful shadow states that may have a vested interest in blocking reform. In the case of South Africa, for example, the state capture that emerged under the Jacob Zuma presidency undermines the willingness of the government to support efforts to promote democracy and development elsewhere in the region. In this sense it is important to keep in mind that every shadow state that emerges makes it more difficult to build international support for policies that can limit the abuse of power.
<table>
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<tr>
<th>Acronym</th>
<th>Definition</th>
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<tr>
<td>AFDL</td>
<td>Alliance of Forces for the Liberation of Congo–Zaire</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>EITI</td>
<td>Extractive Industry Transparency Initiative</td>
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<td>ITRI</td>
<td>International Tin Research Institute</td>
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<td>iTSCI</td>
<td>Tin Supply Chain initiative</td>
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<td>kadogo</td>
<td>former child soldier</td>
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<td>MDC</td>
<td>Movement for Democratic Change (Zimbabwe)</td>
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<td>NRM</td>
<td>National Resistance Movement (Uganda)</td>
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<td>PF</td>
<td>Patriotic Front</td>
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<td>SEATINI</td>
<td>Southern and Eastern African Trade, Information and Negotiations Institute</td>
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<td>SFC</td>
<td>Special Forces Command (Uganda)</td>
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<td>UPDF</td>
<td>Ugandan People’s Defence Force</td>
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<td>ZANU</td>
<td>Zimbabwe African National Union</td>
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<td>ZANU PF</td>
<td>Zimbabwe African National Union Patriot Front</td>
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<td>ZDF</td>
<td>Zimbabwe Defence Forces</td>
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Nicole Beardsworth, Nic Cheeseman, and Simukai Tinhu, ‘Zimbabwe: The coup that never was, and the election that could have been’. *African Affairs*, 2019, doi: 10.1093/afraf/adz009, <https://www.researchgate.net/profile/Nic_Cheeseman/publication/332555915_Zimbabwe_The_coup_that_never_was_and_the_election_that_could_have_been/links/5cbbd7e40a6fddc1d49a5eabe/Zimbabwe-The-coup-that-never-was-and-the-election-that-could-have-been.pdf> (3 January 2020).


THE SHADOW STATE IN THE DRC: GOLD, TAXATION AND NETWORKS OF INFLUENCE IN EASTERN CONGO

Dr Claude Iguma Wakenge
2. The Shadow State in the DRC

1. Introduction: The Shadow State in the DRC

Since the Belgian colonial era (1885-1960) until the independence of the Democratic Republic of the Congo (DRC or Congo) in 1960 and thereafter, governance and administration in the Congo has undergone a multitude of changes. The country was first ruled as the private property of Belgian King Leopold II, before it became a Belgian colony in 1908. Following the assassination of Patrice Lumumba, the newly independent country’s first prime minister, President Mobutu Sese Seko ruled the Congo (formerly Zaire) through predation and patronage for 32 years before his regime crumbled in 1997. The two Congo Wars (1996-97 and 1998-2003) and subsequent shifts in power have created multiple, competing forms of authority, particularly in the mineral-rich east of the country, which has experienced armed rebellion, foreign occupation and, more recently, rapid urbanization. These alternative forms of authority have become so ubiquitous that they now constitute a shadow state, operating in addition to, or instead of, the formal practices of the DRC’s government.

The activities of the shadow state in the DRC are not necessarily legal or illegal. In many cases, relevant laws, regulations and procedures are unclear or poorly enforced while the activities of state actors themselves are often entirely hidden. Although the country’s 2002 Code of Conduct of Public Officials of the State prohibits public officials, including the president and members of parliament from making decisions that may be a conflict of interest, the activities of the monitoring body, Observatoire du Code d’éthique Professionnelle, are not public. In recent years, family members linked to former President Joseph Kabila have accumulated significant wealth—much of it being siphoned from the extractive sector—due to dubious tenders, limited oversight and a lack of implementation.

This practice is replicated at the local level, whereby links to powerful elites provide privileged opportunities for the accumulation of wealth, often in contravention of proper procedures. This, in turn, allows for the production and perpetuation of a network of individuals who collaborate to use (predominately) state power for personal gain in a relatively structured, albeit volatile and ever-changing manner.

One of the ways this is manifested is through tax collection, which is no longer simply a practice confined to state authorities, but has also become the preserve of alternative actors, who may cooperate or collude with the state, but are not part of its official architecture. This report uses the Kamituga gold sector, located in the territory of Mwenga in the Wamuzimu chiefdom, as a case study to examine how an informal association of politicians, administrators, security sector actors and private business interests shape the shadow state.

The proliferation of taxes in the DRC in general, and Kamituga specifically, has been driven by the idea of débrouillez-vous (fending for oneself)—a method of survival adopted by many Congolese in the

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113 CRG, All the President’s Wealth.
114 Data collection took place in May and June 2019 at three mining sites in Kamituga —Calvaire, Chanda-Mero and Mobale—and also in Kinshasa. This includes 38 semi-structured interviews with artisanal miners, registered gold brokers (négociants), civil servants from the Service d’assistance et d’encadrement des mines artisanales et petite échelle (SAEMAPE), division des mines (mining service) and the police des mines (mining police), as well as representatives of a groupement in a relevant area.
context of state decay, which promotes personal improvisation in times of need.\textsuperscript{115} Informal taxation practices have subsequently been enforced by a network of local, provincial and national politicians, armed actors such as the army, police and non-state armed groups, customary authorities, and business elites. These networks are both connected to and operate independently of formal state institutions.\textsuperscript{116} They collaborate and compete depending on internal and external circumstances, similar to the process of consolidation and fragmentation witnessed elsewhere in the DRC.\textsuperscript{117} The shadow state that is structured around these networks is widely fragmented and broken up into various administrative lines that are deeply rooted within the state (and non-state) itself.

The evolution of the shadow state in Kamituga, which began in the 1970s, has gone through a number of phases, bringing in a multitude of actors and a proliferation of taxes. These dynamics have created uncertainty for miners and mine owners but also for those who collect taxes around the mines and depend on this revenue for their livelihood. The report highlights five phases that have shaped the local evolution of gold taxation in the eastern DRC. The different phases—incorporation, expansion, reproduction, consolidation and recycling—reflect the dynamics of the Congolese politico-economic crisis and the logic of predation by state elites.

In this respect, Kamituga functions as a micro-level case study of the shadow state in the DRC and how the influence of state and non-state actors operating outside of democratic, transparent and legal boundaries impacts the functioning of artisanal mining in the DRC while perpetuating predatory governance and impunity. The report maps the actors involved in the Kamituga gold sector from the local, provincial and national level. These practices, the actors involved and the networks sustaining them are not isolated. Local state rulers are connected to provincial and national high-level power elites who protect them. Therefore, the shape and characteristics of the shadow state in Kamituga can help us understand how its patterns may also manifest and function at a national level.

2. The evolution of the Shadow State

An understanding of the Congo’s shadow state must start from its historical origins. As noted above, Congo was initially the private property of Belgium’s King Leopold II. By establishing concessionary companies, his objective was to exploit Congo’s resources as much as he could, rather than for the public interest.\textsuperscript{118} President Mobutu who ruled from 1965 to 1997, established a governance system based on dictatorship and ethnic patronage as instruments to build support for his predatory regime. All of these elements presided over the malfunctioning of the public administration and fed an enduring economic crisis. Studying the ‘real’ economy of former Zaire, Janette MacGaffey argued that people engaged in the second (or informal) economy not only for economic survival, but also as a means to ‘fend for oneself’, in other words to compensate for the inability of the state to provide public services and protection.\textsuperscript{119} More than two decades of armed conflicts and violence, especially in the eastern part of the country has sustained this logic of survival.

\begin{footnotesize}
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\item\textsuperscript{115} For a discussion of débrouillez-vous see Michel Thill, \textit{A System of Insecurity: Understanding Urban Violence and Crime in Bukavu}, London: Rift Valley Institute, 17.
\item\textsuperscript{117} Judith Verweijen and Claude Iguma Wakenge, ‘Understanding armed group proliferation in the eastern Congo’, PSRP Briefing Paper 7, London: Rift Valley Institute, December 2015.
\item\textsuperscript{119} Janette MacGaffey, \textit{The real economy of Zaire: The contribution of smuggling and unofficial activities to national wealth}, Oxford: James Currey, 1991: 39.
\end{itemize}
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The DRC is often presented as being a ‘prime example of a failed state’. Arguments for why this has happened vary, but for many state and non-state actors, the country remains ‘a resource to be plundered rather than as a state to be built’. The DRC has a vast store of minerals that have been exploited throughout all periods of its history. Large reserves of copper and cobalt are mined in Katanga, diamonds are extracted in the Kasai region, gold and diamonds are found in the provinces of Orientale and Equateur, and tin (cassiterite), coltan, tungsten and gold can be located in the Kivus and Maniema province. Until the 1980s, these resources were mainly exploited through state-owned industrial mining companies. After a period of privatization and mismanagement, however, the mining sector became dominated by artisanal and small-scale operations.

Over the last two decades, minerals and mining in the Congo have become closely associated with conflict, violence, underdevelopment, corruption and informal patterns of governance. Despite efforts to formalize the extractive sector, bringing it under state control, rebel groups, foreign armies and the Congolese military itself have fought over and seized mining sites. They have also been involved in mineral trafficking. This was especially the case during the armed rebellions that broke out between 1996–2003, which brought the Kamituga mines under the control of different non-state armed groups.

Conflict in the Congo has resulted in the informalization of various spheres of state and society. In turn, this has resulted in the development of ‘a logic of patrimonial predation and informal redistribution’ of public resources—mainly generated from the extractive sector—among the Congolese elites. This has served to weaken state structures and has led to the development of a powerful shadow state that operates outside of the control of, but also parallel to, the formal state.

The relationship between public authority and taxation in sub-Saharan Africa is widely documented in terms of the administrative capacity of the state to generate taxes. Informal taxation—taxes that are not collected by formal state authorities—is highlighted as a common feature of state-building, including in the DRC. In fragile states more generally, taxation is overwhelmingly experienced as part of informal economies. These consist of ‘economic activities taking place outside the framework of the state’, or the shadow state. In a context such as the DRC, where informal economic activities have become pervasive, the division between the formal and the informal has become blurred.

Taxation from mineral extraction in the Congo is sometimes distinguished between official and unofficial taxes. Official taxes are enshrined in the mining code, while unofficial taxes include all forms of levies made by state agents, military and customary authorities that are not provided for under the law. Mineral extraction and trade in North Kivu is characterized by informal patterns at the production stage, with official and legal taxes levied further down the domestic trading chain, which


121 Englebert, ‘Growth for All?’, 3.

122 The rebellions were the Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (Alliance of Democratic Forces for the Liberation of Congo, AFDL) from 1996 to 1997 and the Rassemblement congolais pour la Démocratie (Rally for Congolese Democracy, RCD) from 1998 to 2003.

123 Englebert, ‘Growth for All?’, 7.


are often negotiable and not always retroceded to the state.¹²⁷ A study of the practices of taxation and corruption in which civil servants are involved in the Katangese copper and cobalt extractive sector notes, ‘There is not even any pretence that these payments constitute official taxes or that they contribute to the budgets of the departments concerned.’¹²⁸

Notions of legality and illegality are often contested in spaces with limited statehood (for example, borderlands) or in spaces—such as the Congolese artisanal mines—where the state is omnipresent and characterized by competing authorities.¹²⁹ The regulatory approach to artisanal mining in the DRC exemplifies this. Informal patterns of governance are often seen as being separate from the formal state but in reality they are embedded within the operation of the state, albeit conducted outside formal mechanisms.¹³⁰

**Introducing Kamituga**

The everyday micro-level practices of taxation in the gold mines of Kamituga offer insight into the operations of the shadow state in the DRC. Kamituga is situated 170 km to the south-east of Bukavu, the capital of South Kivu province. With a population of about 190,000, Kamituga is the third largest city in the province. The Kamituga mining sector is an important economic lifeline for the entire province. There are currently around 15,000 artisanal miners (mineurs artisanaux) in the city,¹³¹ along with 110 pit owners (Président délégué général, PDG) and 168 registered brokers (négociants). In 2018, 21,121 grams of gold were officially recorded as having been extracted from the Kamituga mines.¹³²

Alluvial gold deposits were discovered in Kamituga in the 1920s and the city served as the head office of the Minière des Grands Lacs (Great Lakes Mining, MGL), a Belgian company, which was the first mining company established in the area. Gold exploitation continued after Congolese independence in 1960. During the 1970s, MGL and other mining companies, including Kivumines and Phibraki, became a single entity under the name of Cobelmin. In 1976, following the process of Zaïrianization, which included the nationalization of many private companies, Cobelmin and Symetain merged, giving birth to the Société minière et industrielle du Kivu (Mining and Industrial Company of the Kivu, Sominki), with its head office in Kamituga. From the colonial era until now, Kamituga has experienced a fluctuating presence of state and non-state authorities governing the mines. Over the years, many different authorities established their own taxation systems as a set of practices for extracting revenues from locally based mining operators. Remnants of these practices still remain.

**The phases of the Shadow State**

There are five key phases in the rise, development and reproduction of gold taxation practices and networks, which over time have developed and entrenched a system of control and accumulation by powerful elites from the local to the national level. Kamituga provides a useful case study due to its

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¹³² Recorded gold volume: *Bureau minier Isolé*, ‘Rapport annuel du bureau minier isolé de Kamituga’, Kamituga, 2018 : 3-5. These figures do not include unrecorded and smuggled gold to neighbouring countries, such as Burundi, Rwanda and Uganda.
role in mineral extraction and the different phases of conflict in the DRC. It shows how the multiple and often competing authorities have exercised, and continue to exercise, an ambiguous authority shaping the Congolese shadow state.

i. Inception: The Sominki era

Following independence, the DRC continued the industrial mineral exploitation that had been established during the colonial period. However, falling commodity prices in the 1980s, combined with structural adjustment programmes and the liberalization of the country’s economy—including a 1982 law allowing all Congolese to apply for mining licenses—contributed to the proliferation of artisanal miners. This created a significant source of potential revenue in a context of state decay and lack of public service wages. In Kamituga, taxes were first collected in the 1970s. Both the brigade minière (mining police) and the garde privée de sécurité (private security guard) developed a system of taxation they applied to fraudulent artisanal miners (ninjas), who numbered between 300 and 800 people at the time. To access the Mobale mine, the ninjas paid entrance permits that were equivalent to between 1 and 5 grams of gold per entry. These permits were paid to the police officers or their team leaders (Kapita), who allowed the ninjas to enter the mine. Sominki managers were powerless to stop these local arrangements until the outbreak of the First Congo War in October 1996. One interviewee observes, ‘Many other state agencies and actors have taken inspiration from this practice, which combines illicit payment and a kind of protection of miners by armed actors.’

ii. Expansion: First Congo War

The First Congo War (1996–1997) saw a great expansion of artisanal mining in Kamituga. This resulted in a rapid increase in taxes issued by various authorities. The Alliance des forces démocratiques pour la liberation du Congo-Zaïre (AFDL, Alliance of Democratic Forces for the Liberation of Congo)—a rebel group backed by the Rwandan and Ugandan governments—seized the city in November 1996 before eventually overthrowing Mobutu in May 1997. During this period, the involvement of military actors in mining activities opened up space for their involvement in the gold trade and related activities. These individuals created various forms of taxation as a means of extracting revenues from artisanal miners and other mining operators. Since then, this practice has continued to serve as a means for both financing conflict and personal enrichment for armed actors at the expense of miners and the Congolese state coffers. One pit owner says, ‘Before the war, entering the Mobale mine was formally prohibited to people not working for Sominki and collecting taxes from miners was something illegal. But when AFDL soldiers arrived in 1996, they began levying taxes on us.’

While the war was one cause of the expansion of taxation practices, by 1996 mining operations at Sominki were in rapid decline. This enabled many people—motivated by a deepening economic crisis—to engage in artisanal mining. This period coincided with the negotiations between the Canadian mining company, Banro, the AFDL rebellion and the Mobutu regime (shortly before its

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134 Geenen, African Artisanal Mining from the Inside out, 212–213. Geenen explains why the mining police (brigade minière) was sent to Kamituga by the Kinshasa government in 1981. This decision followed repeated requests by the mining company, Sominki, which also had its own security guards (Gardes privés de sécurité).
135 Interview with former Sominki employee, Kamituga, 18 May 2019.
138 Interview with pit owner in a relevant area, 14 May 2019.
collapse) regarding Sominki assets. Although Banro had acquired research permits for Kamituga gold deposits in 1996, the company was only able to start proper mining operations in 2011 due to political, security and logistical challenges. Artisanal mining and trade have since set in motion a wide range of taxation practices and networks under the control of the AFDL or other influential actors, which connects them to the provincial or national level. For instance, to access the Mobale mine, AFDL soldiers imposed a tax of USD 100 for each artisanal miner. A large share of this money was believed to trickle upwards to certain persons for personal enrichment or war financing purposes.

### Reproduction: RCD Occupation

Between 1998 and 2003, Kamituga was under the control of the *Rassemblement congolais pour la démocratie* (RCD, Rally for Congolese Democracy), a rebel group backed by the government of Rwanda. This followed the commencement of the Second Congo War after a fall-out between the leader of the AFDL and President of the DRC (1997-2001), Laurent-Désiré Kabila, and the rebel group’s foreign backers. Taxes created during the AFDL regime were institutionalized by the RCD, which built upon the previous taxation system, adding new logics of extraction. This included guarantees to protect civilians, including artisanal miners, in exchange for mining, taxes and other levies. During the RCD occupation, both state agencies and armed rebels established (or reproduced) and levied a number of new taxes. The benefits generated from these taxes served to personally enrich armed commanders and finance the RCD rebellion. In the security arrangements between RCD rebels and artisanal miners, the former would provide a kind of protection to the latter in exchange for securing their extractive operations.

Under these arrangements, the then locally based RCD commander, Colonel Thierry Ilunga, became known by the nickname ‘*monsieur divisé-par-deux*’ (Mr Divided-by-Two). This referred to a system of taxation in which artisanal miners extracted gold in Sominki concessions (mainly from the Mobale mine) and then divided up their takings with Colonel Ilunga, through his military gatekeepers. A large percentage of the mined gold was reported and trickled upwards to the then governor of South Kivu, Mazambé Munyatangoy, along with other RCD commanders.

### Consolidation: RCD Influence Persists

Until 2011, despite international and Congolese government efforts to integrate the national army (including the RCD), to formalize artisanal mining activities and to improve governance in the DRC through democratic elections, taxation practices developed unabated. Not all these taxes were set up locally; some were established by state agencies. Many state actors, however, continued to be involved in the consolidation and maintenance of pre-existing taxation practices related to gold mining in an effort to secure the system of control and accumulation. After the Congolese peace agreement in 2003, RCD troops were integrated into the national army. Since then, state authorities—the agencies governing the mines, army commanders and public prosecutors—have all been appointed from Kinshasa, the capital of the DRC, or by Bukavu-based provincial authorities, who also enact laws on gold taxation, thus centralizing control of taxation in Kamituga.

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140 Interview with a former SOMINKI employee, Kamituga, 15 May 2019.
143 Vlassenroot and Raeymaekers, ‘Divisée en deux’, 220.
144 Interview with civil servant from the provincial ministry of mines, Bukavu, 14 June 2019.
There are two main reasons for the perpetuation of these taxation practices. First, efforts to formalize gold mining and the gold trade have been largely unsuccessful due to a lack of national political will combined with a misunderstanding of sector dynamics, actors and networks. Second, despite the integration of RCD troops into the FARDC (Forces armées de la République démocratique du Congo, Armed Forces of the Democratic Republic of the Congo), Kamituga is still under the indirect control of former RCD commanders who have maintained their networks of taxation and trafficking. For example, a former official—is widely reported as one of the main players involved in gold extraction and taxation in Kamituga. Thus centralization can be understood as a process to ensure the upward accumulation of wealth—for example through strategic appointments—despite the lack of transparency or formalization that could facilitate state-building.

v. Recycling: Banro and the Proliferation of Taxes

Banro acquired the Sominki gold concessions midway through 1996, before the outbreak of the First Congo War. While Sominki went into liquidation, in February 1997 the Mobutu regime created the Société aurifère du Kivu-Maniema (Sakima, Kivu-Maniema Gold Company), with the intention of replacing its predecessor. After the collapse of the Mobutu regime in May 1997, President Laurent-Désiré Kabila dissolved Sakima and created a new state-owned company, Société Miniere du Congo (Somico, Congo Mining Company), on 31 July 1998.

Due to the overlapping presence of mining companies in Kamituga, tensions emerged between Sakima, Somico and Banro. This, combined with the outbreak of the RCD rebellion in August 1998, prevented Banro from starting exploration activities for several years. After filing lawsuits against the Congolese state in 2000 and 2001, an agreement was signed on 18 April 2002 between the Kinshasa government and Banro. The agreement restored all Banro titles and rights to its gold concessions. In 2005, Banro started exploration activities in Luwindja. In October 2011, this became the first Banro open pit gold mine in the DRC.

In 2011, Banro started exploration activities in Kamituga at Mobale but was unable to stop both artisanal mining activities and taxation. Banro has repeatedly faced the problem of artisanal miners entering its facilities, despite efforts to prevent these incursions. In September 2019, the company declared force majeure at several of its mining sites, including Kamituga, due to security problems, which absolves Banro of its contractual obligations. In November, however, the DRC government declared Banro’s decision null and void. As a result of these challenges, some miners relocated to Calvaire—a new mining site created in 2012. Others continued to extract minerals from Mobale. One observer points out:

These arrangements have been concluded in the shadows because they do not fit under state law. As a result, by creating new mining sites where state agents can levy taxes, the presence of Banro has had an indirect impact on the rise of taxation. As no one knows what may happen in the future, so everyone wants to fully profit from mining activities because of increased fear that people will be evicted from mining sites.

From 2011, Kamituga witnessed a multiplication of taxation in the gold sector. Operating on a semi-autonomous basis, state agents and armed actors have levied about 40 taxes over mining operators.

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145 Geenen, ‘Relations and regulations in local gold trade networks in South Kivu’.
146 Interview with representatives of Fédération des Entreprises du Congo (FEC, Congolese Entrepreneurs Association), Bukavu, 12 June 2019. On 14 July 2018, President Joseph Kabila promoted Tchiviri to the rank of General. Since then, he has been appointed Commandant adjoint chargé des opérations et renseignement/Secteur Opérationnel (Assistant officer for intelligence and operations) in Bunia, Ituri Province.
147 Focus group discussion with groupement representatives in a relevant area, June 2019.
in the area. In June 2013, Kamituga was promoted to the status of town—due to its growth to over 100,000 residents—and came under the administrative authority of a mayor. Public administration was traditionally managed by the Balighi chef de groupement (head of groupement, an administrative area consisting of several villages) and by a state authority (poste d’encadrement administratif, consisting of a municipality). Similar to a chiefdom (cheferie), groupements and poste d’encadrement administratif are administrative units ruled by traditional leaders linked to the state administration and state representatives. Despite changes in the Kamituga governing authority, however, these taxes have not been suppressed. In fact, the municipal authorities have instituted 13 additional taxes on mining operators. In response, artisanal miners have developed strategies either to pay these taxes or to avoid them.\footnote{Mulonda, Radley and Geenen., ‘Arrêtez les concasseurs’, 160.} Figure 1 shows the growth in taxes levied on the gold sector over time.

**Figure 2.1. Evolution of taxes collected in the Kamituga gold sector**

![Figure 2.1](image-url)

**Source:** Based on interviews and other data collected during the author’s fieldwork in Kamituga (May-June 2019)

Table 2.1 highlights the features of taxation in the Kamituga gold sector. It is clear that Kamituga mine operators not only face multiple taxes, as illustrated in Figure 1, but they also pay different forms of taxation. Out of the 40 taxes identified, 9 are official state taxes levied by the national government and 31 are more or less local creations.\footnote{Province of South Kivu, ‘Arrêté provincial No18/002/GP/SK portant fixation de l’assiette des impôts, droits et redevances à percevoir par l’entité province du Sud-Kivu et leurs taux applicables au cours de l’exercice budgétaire 2018’, Bukavu: Cabinet du Gouverneur de province, 8 January 2018, 19–21. The taxes that are locally created include those that the Kamituga municipality have levied without the approval of the provincial assembly.} Locally created taxes are those that have been established by people in positions of authority in the municipal government in Kamituga, without having been provided for under either the Mining Code or other forms of legislation, including ministerial decrees.

As a decentralized unit of government, the municipality can legally set up, collect and use its own taxes for local investments. Legal enforcement of such taxes requires approval by the provincial assembly. In terms of the new locally created taxes, this is not the case. When state officials at the provincial and national levels were asked about the existence of these taxes, they professed ignorance.\footnote{Interviews with civil servants from the national ministry of mines, Kinshasa, 17 June 2019.} In reality, however, many of these officials receive financial kickbacks from individuals officials based in Kamituga and Bukavu.\footnote{Interview with a civil servant of the Provincial Ministry of Mines, Bukavu, 22 June 2019. See also: Mapenzi Julien. ‘Misisi: pourquoi tant d’incidents dans la chaine d’approvisionnement de l’or’, Anvers, Misisi: Action pour la paix et le développement and International Peace Information Service (IPIS), 2019: 12.} As a staff member from the mining service (or department

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\textsuperscript{148} Mulonda, Radley and Geenen., ‘Arrêtez les concasseurs’, 160.

\textsuperscript{149} Province of South Kivu, ‘Arrêté provincial No18/002/GP/SK portant fixation de l’assiette des impôts, droits et redevances à percevoir par l’entité province du Sud-Kivu et leurs taux applicables au cours de l’exercice budgétaire 2018’, Bukavu: Cabinet du Gouverneur de province, 8 January 2018, 19–21. The taxes that are locally created include those that the Kamituga municipality have levied without the approval of the provincial assembly.

\textsuperscript{150} Interviews with civil servants from the national ministry of mines, Kinshasa, 17 June 2019.

of mines) in Kamituga asserts, ‘Many people are involved in these kickbacks, including people in the South Kivu governor’s cabinet.’

In another case, the cartes décréseurs (miner permit form) for the Kamituga gold mines in certain concessions are signed by the provincial ministry of mines and are imposed on people by staff of the Bureau minier isolé without legal authority. Legally, these cartes should only be sold to artisanal miners extracting minerals in demarcated Artisanal Exploitation Zones (AEZ). Overall, its relationship with artisanal miners and mine owners has been shaped by waves of mixed tolerance and confrontation.

The history of conflict and state decay in the Congo has had a significant impact on mining taxation in Kamituga as well as the development and entrenchment of a shadow state of actors who ultimately benefit from the proliferation of taxes levied on miners and mine owners. The people who wield power in Kamituga are often connected to provincial and national actors. The practices in which they have engaged have weakened the formal state structures in the DRC. Rather than conceiving of a shadow state as necessarily informal and illegal, the activities of the people operating within this network often rely on high-level political protection, as well as a climate of fear and uncertainty.

Table 2.1. Taxes identified in June 2019

<table>
<thead>
<tr>
<th>Tax name</th>
<th>Taxation authority</th>
<th>Tax payer</th>
<th>Amount in USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Anti-fraude (anti-fraud)</td>
<td>FARDC</td>
<td>négociants</td>
<td>50.00/year</td>
</tr>
<tr>
<td>2. Accès à l’eau (accessing water)</td>
<td>Energy</td>
<td>Owners of washing parcels</td>
<td>50.00/year</td>
</tr>
<tr>
<td>3. Atténuation environnement minier (environment mitigation)</td>
<td>Mining service</td>
<td>pit owners</td>
<td>5.00/year</td>
</tr>
<tr>
<td>4. Attestation de transport des minerais (ATM, certificate for mineral transportation)</td>
<td>Mining service</td>
<td>négociants</td>
<td>10.00/month</td>
</tr>
<tr>
<td>5. ATM</td>
<td>SAEMAPE</td>
<td>négociants</td>
<td>10.00/month</td>
</tr>
<tr>
<td>6. Balance (weighing scales)</td>
<td>DPMER</td>
<td>négociants</td>
<td>50.00/year</td>
</tr>
<tr>
<td>7. Balance</td>
<td>DGI</td>
<td>négociants</td>
<td>50.00/year</td>
</tr>
<tr>
<td>8. Balance</td>
<td>industry</td>
<td>négociants</td>
<td>50.00/year</td>
</tr>
<tr>
<td>9. Balance</td>
<td>Municipality</td>
<td>négociants</td>
<td>50.00/year</td>
</tr>
<tr>
<td>10. Carte de creuseur (mining permit)</td>
<td>Mining service</td>
<td>miners</td>
<td>14.00/year</td>
</tr>
<tr>
<td>11. Carte de négociants (trader permit)</td>
<td>Mining service</td>
<td>négociants</td>
<td>300.00/year</td>
</tr>
<tr>
<td>12. Déclaration d’ouverture (announcement of opening)</td>
<td>Mining service</td>
<td>pit owners</td>
<td>50.00/year</td>
</tr>
<tr>
<td>13. Drain</td>
<td>energy</td>
<td>miners</td>
<td>0.70/day</td>
</tr>
<tr>
<td>14. Echantillon (Sampling)</td>
<td>Mining service</td>
<td>pit owners</td>
<td>in kind, periodically</td>
</tr>
<tr>
<td>15. Enregistrement de boute de feu (explosive device)</td>
<td>Mining service</td>
<td>pit owners</td>
<td>100.00/year</td>
</tr>
<tr>
<td>16. Enregistrement des concasseurs (crushing mills )</td>
<td>Mining service</td>
<td>Crushing mills' owners</td>
<td>250.00/year</td>
</tr>
</tbody>
</table>

152 Interview with civil servant from Bureau minier isolé, Kamituga, 11 June 2019.
153 According to the Congolese Mining Law (Title 4, Chap. 1, Art. 109), the AEZ are areas where ‘the technological and economic factors are not suited for the site to be industrially exploited’. AEZ are therefore reserved exclusively for artisanal mining.
154 Mulonda, Radley and Geenen., ‘Arrêtez les concasseurs’.
155 These are stones containing gold that civil servants collect in mining shafts, arguing that they are used for analytical purpose. In the end, however, they sell them. Interview with civil servant from Bureau minier isolé, Kamituga, 11 June 2019.
| 17. Entrée mine de Mobale (Mobale entry permit) | Police and Municipality | miners | 0.60/day |
| 18. Fiche technique (technical sheet) | Mining service | pit owners | 100.00/year |
| 19. Fiche technique d’inspection minière (technical sheet for mining inspection) | SAEMAPE | pit owners | 50.00/year |
| 20. Formulaire demande/carte creuseur (miner permit form) | Mining service | cooperatives | 50.00–100.00/year |
| 21. Installation dans la rivière (river installation) | police | miners | 0.70/day |
| 22. Lavage des minéraux (mineral washing) | Mining service | Owners of washing parcels | 10.00/year |
| 23. Maison d’achat d’or (buying house) | Municipality | négociants | 150.00/year |
| 24. Motopompe (motor pump) | energy | pit owners | 50.00/year |
| 25. Pollution | environment | négociants | 50.00/year |
| 26. Ravitaillement militaire (military supply) | FARDC | pit owners | 525.00/month |
| 27. Rémunération (1% of transactions) | SAEMAPE | pit owners | 50.00/year |
| 28. Rémunération (1% of transactions) | DPMER | négociants | 250.00/year |
| 29. Suivi des exploitants d’or la mine (supervision of miners) | Municipality | miners | 0.70 |
| 30. Exploration des puits d’or à ciel ouvert ou mines (pit exploitation) | Municipality | pit owners | 300.00–1,000.00/year |
| 31. Débordage en exploitation d’or (outflank gold exploitation) | Municipality | pit owners | 100.00/year |
| 32. Exploitation de loutra (washing parcel exploitation) | Municipality | Owners of washing parcels | 100.00/year |
| 33. Exploitation des puits d’or en activité (à ciel ouvert et/ou mine) (underground and open pit exploitation) | Municipality | pit owners | 100.00/year |
| 34. Exploration des puits d’or en activité (pit exploration) | Municipality | pit owners | 100.00/year |
| 35. Machine testeur de minerai (mineral testing device) | Municipality | N/A | 500.00/year |
| 36. Transport de minéraux par Kasomba (Transporters) | Municipality | transporters | 0.40/day |
| 37. Transport de minéraux par tracteur (tractor mineral transportation) | Municipality | Kamituga Developement (KAGADEV) | 9.50/journey |
| 38. Tuyau (pipeline for water supply) | Mining service | pit owners | 150.00/year |
| 39. Tuyau | energy | pit owners | 300.00/year |
| 40. Tuyau | SAEMAPE | pit owners | 50.00/year |

Source: interviews with civil servants from the mining service, police des mines (mining police) and SAEMAPE; Kamituga mayor list of taxes (5 June 2019) and provincial decree provincial decree (No18/002/GP/SK) of 8 January 2018.
3. The centrality of taxation

The shadow state, exemplified through the proliferation of taxes collected by state and non-state actors, is rooted in a number of economic and political dynamics. These relate to the economic crisis that hit the DRC in the 1980s, which pushed many Congolese towards artisanal mining for survival.\(^{156}\) The rise and evolution of taxation coincided with waves of insecurity and political instability. In the last two decades, Kamituga has repeatedly seen various military bodies collaborate, or be in conflict with, the state agents involved in mining and taxation. Despite changes in its political and security systems, the Congolese state administration of taxation is still predominantly shaped by the influence of powerful elites and armed actors.

In Kamituga, multiple entities are involved in tax collection, including state agents, the Congolese military, mining police and local customary authorities. Table 1 shows that taxes have been increasingly privatized and are now collected by a range of authorities and powerful actors. As the number of taxes has multiplied, they have also become duplicated, with proceeds being increasingly siphoned off to various elites, legally or illegally. A member of the local mining service explains:

> Each service prêche pour sa chapelle [defends its own interests] to such an extent that there exist many taxes without receipts and if these exist, many of them are unreliable. We are not able to monitor everything.\(^{157}\)

Tax collectors use three different approaches to enforce compliance: Negotiation, alternative arrangements and coercion. These practices illustrate the extent to which state officials rely on a range of institutional resources to legitimize their actions. This phenomenon is analysed in other studies of taxation in the DRC, whereby coercion and exploitation are combined with legitimate and official state practices.\(^{158}\)

**Negotiation**

In Kamituga, miners and state tax collectors live and work in the same physical space. This means that miners are often forced to negotiate over taxation. These negotiations can take various shapes. One pit owner points out:

> Recently, our cooperative [COMIBAL, Coopérative minière de Bitanga et Lukala, Mining Cooperative of Bitanga and Lukala] negotiated the payment of a tax fixed at USD 6,000 that the DGI [Direction générale des impôts, income tax agency] imposed on us for using crushers in gold processing. In our eyes, this tax is illegal, ni manyanga tu [a cheat]. Because we now have been very clever, we were able to negotiate payment and reduce it to only CDF 600,000 [USD 360], paid to avoid further harassments.\(^{159}\)

As this example illustrates, while negotiation on a tax that is essentially informal or illegal may result in reducing the amount that is paid, informality can also be seen as a ‘negotiable value’\(^{160}\)—it allows formal negotiation over an informal economic activity, such as illegal taxation by state agents.

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\(^{157}\) Interviews with civil servant of the mining service, Kamituga, 19 May 2019.


\(^{159}\) Interview with a pit owner in a relevant area, 14 June 2019.

Negotiation may also concern an extension of the due date for payment of a tax. This may be contingent on the length of time during which gold mining has taken place. If gold mining has not yet been successful, then tax collectors can wait. In this context, the pit owner may offer guarantees that, once the tax has been paid, individuals miners will grant tax collectors money for their own personal use.

In other cases, negotiation with the tax authority can focus on the form of payment. This can be in cash or in kind (normally gold). These practices of negotiation resonate with other studies of the Congolese administration that describe how civil servants have privatized public services to secure their personal survival, resulting in ‘endless negotiations with civilians for all kinds of services’. 161

“Alternative Arrangements”

*Trafic d’influence* (influence peddling) and *couverture* (connections with higher-level authorities) are also common practices that shape both tax collection and tax evasion, which is evident in the gold trade. One *négociant* states, ‘The *trafic d’influence* is very common in Kamituga. One needs "connections" to work safely.” 162

To avoid payment of tax, many pit owners and *négociants* cooperate with state officials, who then claim that they own the mining shaft or the business of the *négociant*. By exploiting their status, these officials use their legal authority or powerful connections to ban tax collection from pit owners and *négociants*. 163 One tax collector explains:

> When we want to collect taxes at a protected shaft, the pit owner phones a high-ranking official, who in turn phones us, often using bullying words, such as ‘if you are too nosy in my business, I will do my best to harass you. That is my dining table’.

State officials have created a climate of fear among tax collectors. *Couverture* is not random. In exchange for it, pit owners and *négociants* grant officials a specific amount of money, up to USD 5,000. In other cases, they give them a *passe* (an allotted time for extracting minerals in a shaft) in the shaft. This consists of letting people extract minerals on behalf of a state official. This practice was documented as being in use during the RCD rebellion, when rebels relied on the local population to work in the mines in exchange for providing them with physical security. 164 Even though Kamituga is no longer under armed control, this practice is being implemented once again.

Additional arrangements are also in use. 165 For example, a pit owner who officially owns a mine shaft may cooperate financially with state officials or FARDC commanders. The latter may provide materials necessary for the digging operations—motor pumps, generators, fuel or food ration to miners. During the production phase, both the pit owners and state officials or FARDC commanders then share the profits. In this situation, the pit owner does not pay any tax. One pit owner, however, spells out the risks of this arrangement, especially when it comes to FARDC commanders:

> These arrangements may easily come crashing down, resulting in overt conflicts. For instance, when the shaft reaches promising gold production, the FARDC commanders may

161 Trefon, *Congo Masquerade*, 69.
162 Interview with *négociants* in a relevant area, 16 May 2019.
165 Interviews with pit owners in a relevant area, 16 May 2019.
seize the shaft and appoint a group of soldiers as gatekeepers to prevent former associates from working. In case of resistance, the commanders may arrest these associates.\textsuperscript{166}

Conflicts around mining arrangements also occur when accidents happen in the shaft, including when miners die. Accidents are common, such as near Kolwezi, the capital of Lualaba province in south-east DRC, on 27 June 2019, when two galleries overlooking an open excavation pit collapsed, causing dozens of deaths.\textsuperscript{167} As state authorities, police commanders and FARDC officials, along with ordinary soldiers and police officers, are forbidden to mine or trade minerals, these individuals deny any responsibility regarding mining activities, putting the pit owner at risk of being arrested or having to pay damages to the families of victims.

\textit{Coercion and arrest}

Coercion and intimidation are common features of the relationships between tax collectors, tax payers (miners, pit owners and \textit{négociants}) and those in positions of authority. As noted, state authorities often allow pit owners and \textit{négociants} to circumvent payment of taxes. Many state agencies in charge of collecting taxes (for example, the DGI, the mining service or SAEMAPE [\textit{Service d’assistance et encadrement des mines artisanales et à petite échelle}, Assistance Office for Artisanal and Small-Scale Miners]) rely on the same authorities to force people to comply with tax payment. Some pit owners complain about this interference, with one elaborating thus:

\begin{quote}
When a new mining shaft is discovered or when a given shaft becomes productive, army commanders or the police set up a military post nearby. This post is rarely installed for security reasons but for tax collection and harassment purposes.\textsuperscript{168}
\end{quote}

State agents liaise with the office of the public prosecutor, the police and FARDC commanders to ensure tax payment. It is unclear whether individuals of national political significance are also involved. In a context where \textit{rapportage} (reporting)—a practice whereby lower-level functionaries are obligated to generate revenue for their hierarchies—trickles upwards from the local to the provincial and national state officials, it seems that coercion and arrest in the gold taxation sector are part of this process. In exchange for their services, state officials are granted a bonus.

State officials have developed several strategies to enforce tax payment or to benefit from this economy of taxation and harassment. They may seal off mining shafts, crushers or the workplace of a \textit{négociant}. They also may ask for personal bribes. Finally, they may arrest those who resist tax payments. To secure their release, those arrested pay a fine, the amount of which generally depends on capacity for payment.

For example, when the office of the public prosecutor seals off a crusher in Calvaire, it is said that the owner will be charged up to USD 250 to regain the use of it, an amount that will not reach the public treasury but is instead pocketed by the public prosecutor.\textsuperscript{169} In other instances, FARDC commanders order soldiers to arrest tax collectors who ‘are disturbing their affairs’.\textsuperscript{170} These practices lead one interviewee to wonder: ‘Is tax collection a gangster practice?’\textsuperscript{171}

\textsuperscript{166} Interview with pit owner in a relevant area, 16 May 2019.
\textsuperscript{168} Interview with \textit{Président délégué général} (PDG), Mobale, 16 May 2019.
\textsuperscript{169} Interview with owner of crusher, Calvaire, 14 June 2019.
\textsuperscript{170} Interview with pit owner in a relevant area, 14 June 2019.
\textsuperscript{171} Interview with pit owner in a relevant area, 14 June 2019.
Taxation practices in Kamituga are structured around coercion, informality and an upward accumulation of tax revenue. While miners, négociants and pit owners are able to negotiate the growing number of taxes enforced by an ever-changing array of authorities, the system is ultimately enforced by powerful elites in government, business and security. These links stretch from Kamituga to Bukavu and Kinshasa, lining the pockets of several layers of government, despite what is outlined in the country’s Mining Code. The practices of rapportage and débrouillez-vous further incentivize powerful actors to collect an increasing number of taxes for themselves and their superiors, ensuring an upward flow of mining revenue.

4. Gold taxation networks

Governance patterns in the Congo are shaped by the complex interplay of political, social and economic networks, which are both part of formal state institutions but also often escape these. To protect their economic interests, these networks often overlap and neutralize one another. This is consistent with the dynamics of the Kamituga gold mining sector and taxation system, where there is room for cooperation and mutual arrangements within and between networks and the actors involved in taxation. The networks, however, are not always clear and are often in flux, depending on appointments from Bukavu or Kinshasa, military (re)deployments and armed group activity.

There are four key taxation networks that represent the following groups of actors: Military entrepreneurs; locally based state officials; high-level political elites; and customary chiefs. Some of these actors are more visible than others, particularly those who collect taxes directly from mining operators. Those actors who are less visible participate in the redistribution system of tax revenues, sometimes via other state agencies acting as intermediaries. For instance, before the inauguration of Kamituga municipal authorities in February 2019 following the general election, the mining police and agents of the mwami (paramount customary chief) collected an entrée mine (entry permit) tax and redistributed the funds they collected to other state agencies and actors, as follows: Wamuzimu chiefdom (40 per cent), the territory of Mwenga (20 per cent), the mining service (15 per cent), the mining police (15 per cent) and tax collectors (10 per cent).

Less visible actors involved also included the Agence Nationale de Renseignements (ANR, the National Intelligence Agency) and the Chef de poste d’encadrement administratif (municipal authority), who received their share from the territory of Mwenga. At the time of writing this report, the Kamituga municipal authorities collect the entrée mine tax and manage these revenues on their own, excluding other entities previously involved in the redistribution of taxes.

Military entrepreneurs

The first key taxation network is structured around armed actors, principally the mining police and FARDC commanders, who have instituted their own taxes; for example, the ravitaillement militaire (military supply tax) and anti-fraude (anti-fraud tax). Commanders share a portion of the amount generated by these taxes as kickbacks to high-level army superiors in Bukavu and Kinshasa. Despite criticism from civil society organizations in Kamituga about the involvement of military and state officials in the mining business, the FARDC based in Kamituga largely operates without fear of interference in their operations. A civil society representative elaborates:

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172 Trefon, Congo Masquerade, 69.
173 Interview with former municipal authority, Kamituga, 15 May 2019.
174 Interview with former Sominki employee, Kamituga, 18 May 2019.
175 Interview with Kamituga-based trader, Kamituga, 18 May 2019.
These individuals can be repositioned elsewhere. Sometimes they are arrested. After a short period, however, they are able to come back again because of their vested interests in the gold business. This also happens because these state officials are protected by an invisible and influential hand, which allows them to occupy juicy positions in the military administration.\footnote{176 Interview with one civil society representative, Bukavu, 13 June 2019; Tchiviri is also president of Kabukungu service médical sawasawa (KASMS), a local football team.}

In 2017, civil society organizations in Kamituga accused Honore Tchiviri and troops under his command of extorting the local population.\footnote{177 For more details, see ‘Insécurité due au vol à répétition à Kamituga: Tracasserie dans les puits d’or. Kamituga : Bureau de coordination de la société civile, noyau de Kamituga, 3 April 2017.} Operations associated with this activity include involvement in mining activities and taxation, night-time burglaries and murders targeting pit owners, traders and négociants, arbitrary arrests, and the recurrent violent robberies and assaults of passengers and vehicles on the RN2 (national road) to Kamituga.\footnote{178 Idem, p. 2.}

The accusations made by civil society groups were written in several letters addressed to the FARDC regional commander (Commandant région) and the general chief of staff (chef d’Etat-Major) in Bukavu and Kinshasa, respectively.\footnote{179 Bureau de coordination de la société civile, noyau de Kamituga. Protection des acteurs société civile (Activistes des droits humaines) en Territoire de Mwenga. Kamituga : Bureau de coordination de la société civile, 25 March 2017.} A civil society delegation also met these authorities in April 2017 to substantiate their claims and try to curtail the influence of Tchiviri over mining activities and security issues. A month later, Tchiviri was arrested and jailed in Ndolo, a prison in Kinshasa. On 13 October 2017, however, he was released and returned to Kamituga, which perhaps suggests that despite normal procedures for justice, powerful actors within the shadow state can overrule decisions and reinstate trusted colleagues in lucrative positions.

Local officials

The second main taxation network involves political influence, which shapes the way networks around tax collection function, facilitating kickbacks to members of the shadow state. In December 2018, Irène Wasso Wabiwa was elected as a national member of parliament for Mwenga. Her election resulted from a well-elaborated political and economic strategy. Wabiwa is married to the influential Néhemie Mwilanya, the former head of cabinet for then President Joseph Kabila (2001–2018) and current leader of the Front Commun pour le Congo (FCC, Common Front for Congo), which is Kabila’s political platform. In preparation for her election campaign, Wabiwa is said to have allied with a gold trader. Although there is no concrete evidence of this relationship, people in Kamituga appear to be convinced that, given his influence in commercial gold networks, the trader played a significant role in helpful to finance Wabiwa’s election campaign.\footnote{180 Interview with former chef de poste, Kamituga, 15 Mai 2019.}

In addition to political positioning within the Kamituga municipality, there are also economic interests at stake between the local officials. It is rumoured that at the company of one of the local officials, taxes collected by municipal agents and police officers at the mines and at local markets are used to fuel cash transactions, including buying gold.\footnote{181 Interview with representative of Fédération des Entreprises du Congo (FEC), Bukavu, 12 June 2019.} The informal economic relationships between these certain local officials are a marker of the shadow state and participate in weakening the formal state, as well, by using political and financial power to pursue agendas outside the scope of normal procedures.
State officials

High-level state officials have also developed another crucial taxation network. This is connected to both provincial and national authorities. Heads of state agencies—the mining service, SAEMAPE, DGI and DPMER (Direction provinciale de mobilisation et encadrement des recettes, provincial tax authority)—based in Kamituga have created a number of taxes that are not provided for under the law, either at the national or provincial level. In order to maintain their administrative positions, these individuals collect significant amounts of money from these taxes, which are then shared with the upper echelons of their various hierarchies. As one interviewee explains:

In Kamituga, there are two ways of obtaining a juicy administrative position. Either one can buy it or obtain it from influential political elites, for instance the provincial ministry of mines or the provincial head of the mining service, who recommends someone to such a position. In exchange, it becomes compulsory to regularly report [give money] to these individuals. In other words, to send them lump sums of money because they know that money is made here from the gold business and taxation. Someone who is recommended cannot enjoy it [the taxes they collect] alone. ... Without money and rapportage, the work does not sound for our hierarchy. Even provincial authorities phone us, demanding their share.182

This account resonates with the administrative trajectory of the Kamituga-based public prosecutor, Saleh Katameya Daniel. In 2006–2007, the national justice minister in Kinshasa appointed him as a substitute to the public prosecutor in Kamituga. In November 2007, following much popular discontent and a public demonstration against his misconduct, he was moved to Goma, the North Kivu provincial capital.183 In June 2018, he again returned to Kamituga, after being promoted to public prosecutor (Procureur de la République). This reflects a pattern of the shadow state whereby individuals are temporarily removed to quell discontent before returning to continue their operations. According to a number of interviewees, this positioning and repositioning was not a random occurrence, but reflected the political logic of the shadow state.184 More specifically, it has been alleged that Katameya is involved in mining activities and taxation, sealing mining shafts, settling disputes between pit owners, including on shaft limits, and ultimately fining them, and provides rapportage to senior figures in the legal and judicial system.185

Customary authorities

The fourth taxation network is structured around customary chiefs in the Wamuzimu chiefdom. Before Kamituga became a municipality, the mwami collected rents from miners, négociants and traders through a number of representatives, such as tax collectors from the groupement of Balighi. Taxes collected included: The entree mine of Mobale (USD 0.60); the redevance coutumière (customary duty), a traditional monthly tax costing approximately USD 200 per pit owner; and the tax on local traders. As observed elsewhere, in Luhindja, for instance, the mwami ‘derived considerable benefits from the artisanal mining’.186 Although the municipality has taken over the taxes that were collected by customary chiefs (that is, the entrée mine tax and the tax collected on local traders), customary chiefs claim that they are still entitled to levy them.

Similar to the conflicts that broke out in Twangiza between Banro and the local population over land rights and compensation for eviction, the situation in Kamituga has led to conflicts between

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182 Interview with secretary of mining service, Kamituga, 20 May 2019.
183 Interviews with notables of the groupement in a relevant area, 19 May 2019.
184 Interviews with chef de groupement and his notables (leaders) in a relevant area, 18 May 2019.
185 Interviews with notables of a groupement in a relevant area, 19 May 2019.
186 Geenen, African Artisanal Mining from the Inside Out, 40.
municipal authorities and customary chiefs. The latter accuse the former of violating their rights to benefit from revenues collected from the land of their ancestor. At issue in both cases is the contestation of authority, leading to the multiplication of taxes that contribute to feed the shadow state.

The networks that sustain the shadow state around taxation in Kamituga’s gold mining sector range from local to national and state to non-state actors. While there is a certain level of coherency to these networks, it does not suggest an official parallel system but rather a network that operates at the intersection of public and private, while using state decision-making, financial capital and force to sustain an ever-changing network of interests. In Kamituga, powerful actors cooperate and compete for influence over taxation, which in turn impacts elections, rule of law, violence and public authority. Meanwhile, miners and mine owners remain at the discretion of elites in Kamituga, Bukavu and Kinshasa.

5. Impact of the shadow state

In order to gain a better understanding of the gold taxation networks, it is important to place their current practices and the functioning of these networks into an historical context. Rather than treating the emergence and development of these networks as merely linked to the predatory tradition of state agents and officials, these networks have to be considered in relation to the continuing processes of state crisis, state formation and destabilization in the DRC. Taxation networks and changing practices in the gold sector can be seen as one among the major manifestations of long-lasting state decay, which has opened up opportunities for the emergence and functioning of the shadow state.

A fragmented landscape

The patterns of gold taxation in the DRC are not coherent or consistent. Rather they are broken up into various administrative lines that are often rooted within the state itself but also operate outside the state. This enables many powerful actors to develop informal taxation practices that rarely feed the state budget. Importantly, however, these myriad practices do not add up to a whole—neither the Congolese state nor the shadow state—because of the relative autonomy of the state agencies and actors involved.

The account from the secretary of the mining service in Kamituga provides credence to this argument:

Given a context of administrative chaos, our agency is unable to coordinate tax collection. Other state agencies, for instance the DGI, rarely inform us about the kind of taxes they have levied. Each service works en solo [alone] and tries to collect money as much as possible. Sometimes, however, some agencies contact us so that we can turn a blind eye to their informal practices and unreliable reports on taxation. This allows all of us to eat together—in other words, to collect money for ourselves.

To substantiate this claim, the interviewee elaborates an example. He explains that the mining service sold carte des négociants (trader permit), costing USD 300 per permit, to five négociants

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188 Interview with secretary of the mining service, Kamituga, 22 May 2019. The example explained in subsequent paragraphs also comes from this interview.
based in Kamituga. A civil servant from the DPMER—a provincial fiscal agency that is officially in charge of centralizing all revenues from taxes collected in the province—contacted him. The civil servant proposed that instead of delivering the actual permits, they would only give the five négociants a card signed by a former governor of South Kivu. This meant that the amount the négociants were required to pay could neither be deposited in a bank account nor reported by the mining service. The civil servant did so. A few days later, when agents from the anti-fraud agency inspected these négociants, they discovered the fake trader permits and said they would arrest them for fraudulent practices if they were unable to exhibit bank receipts as a proof of payment.

The négociants offered bribes to the anti-fraud agents to get them to back off from the threats of arrest. This example demonstrates that even though there is much fragmentation among state services, there is also a degree of cooperation between civil servants. Yet, this cooperation does not occur to support or favour public interests. Rather, it follows the logic of personal gain and informal distribution, which serves the interests of those connected to the shadow state.

Lack of accountability

The second major impact of the shadow state in the DRC is the institutionalized lack of accountability by state actors involved in gold taxation practices. Looking at the practices of negotiation, alternative arrangements and coercion that accompany taxation, the political and economic connections between actors, and how provincial and national state authorities seem to condone the multiplication of taxation for mining operators, there can be little hope that state officials are concerned with being accountable either to the formal state or Congolese citizens.

One crucial point is that taxes are not collected for the public good. Instead, they are collected for the personal enrichment of individuals—from the lower administrative echelons right up to the national level and political actors in Kinshasa. This is a common feature of the Congolese administration, which ‘is instrumentalised by the state’s political elites. They exploit the administration in the same way they exploit mafia-type networks for political survival and personal enrichment’. Despite the shifts in local authority structures observed over the last two decades, in Kamituga the enduring practice of rapportage and the connections between particular municipal authorities and high-ranking politicians illustrate how powerful elites are able to privatize public services and the taxation system associated with them by redirecting public revenue to the pockets of shadow actors.

This goes beyond the idea that such privatization occurs because the state is no longer able to provide better working conditions, leading civil servants to look for alternative means of survival. The informal privatization of public services (through taxation) deals with the strategies adopted by many civil servants and state officials to use their legal authority in order to protect their administrative positions, while earning benefits from them.

It is thus clear that individuals are able to invent their own tricks and taxes to scam the state; for example, how some pit owners are complicit with FARDC commanders to exploit their mining shafts and circumvent tax payment. In Katanga, government officials are:

189 There are two types of cartes de négociants. A provincial decree (No18/002/GP/SP of 8 January 2018) indicates that USD 500 should be paid for a category A card (a permit to buy gold in Bukavu) and that USD 300 should be paid for a category B card (a permit to buy gold outside Bukavu).
190 In 2018, 30 similar cards without bank receipts, worth about USD 9,000, were sold to négociants in Lugushwa. Interview with Kamituga trader, Bukavu, 11 June 2019.
Actively colluding with trading companies in circumventing control procedures and the payment of taxes. The profits are serving to line the pockets of a small but powerful elite—politicians and businessmen [sic] who are exploiting the local population and subverting natural riches for their own private ends.  

Other tricks being used are in line with the capacity developed by many state agents to invent taxes or to make mining operators pay more than the legally fixed amounts. For instance, a miner pays USD 14 for a carte de creuseur, instead of the USD 10 that is set by the mining law. These tricks may also relate to the way in which taxes and the related amounts collected are not mentioned in official reports. This is the easiest way of concealing them and blurring the shadow networks of distribution around them. For instance, the tax for using crushing mills is an official tax levied by the mining service but is not mentioned in the 2018 report by this service. Figure 2 shows the many ways in which the state is cheated out of tax revenue.

**Figure 2.1. Taxes reported by the mining service in 2018**

![Source: 2018 report from the mining service, 3.](image)

The amount that the mining service collects from taxes on an annual basis is approximately USD 140,000 (see Table 1). Comparing this amount to the USD 69,858 reported in Figure 2, it is clear that the latter represents about half of the revenues that the mining service collected in 2018. The rest is under-reported and suggests that a large amount of money is being siphoned away from the state. Reports by other state agencies are unlikely to be significantly more reliable. Thus, the impact of taxation networks on the state and its economic growth is significant as half of the taxes that miners and mine owners pay are not going to fund the state and its public services. Not only is the state missing out on tax revenue that is officially recorded from gold taxation but it is also missing out on the opportunity to build a social contract with its citizens.

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195 Interview with one South Kivu Governor advisor in mining, Bukavu, 2 June 2019.
6. Conclusions and policy recommendations

This report uses the Kamituga gold sector as a lens through which to view the shadow state in the DRC. It shows how the networks and the relationships between various actors have weakened the formal state in the DRC and shaped the development of a multipolar shadow state. The micro-level practices and networks of taxation in Kamituga are not isolated. The actors developing these practices and the networks sustaining them are connected to provincial and national political dynamics, and are protected by high-level power elites. In spite of these connections, rather than reading gold taxation practices as grounded in local realities, the shadow state structured around these practices is widely fragmented. This fragmentation has had a profoundly negative impact on state-building in the DRC.

The shadow state, illustrated through the four networks of gold taxation that operate in Kamituga, has grown increasingly powerful. While this trend relates to an enduring historical economic crisis and struggles by armed actors to access natural resources in the DRC, this evolution runs counter to recent efforts to build up the Congolese state through democratization processes and various governance reforms, including in the extractive sector.

The shadow state networks in Kamituga do not function as an exclusive form of parallel governance. Instead, it is a mode of governance that has been adopted and adapted by elements of the state in collusion with military entrepreneurs, customary authorities and other non-state actors. Taxation networks mainly thrive within the state itself, based on the logic of protection and redistribution within the public services sector and the circles of influence in which state officials operate. In addition to this, the nature of armed actors has changed or been recycled in many instances but their capacity for extortion, especially through gold taxation, remains the same.

The following considerations are primarily directed toward improving the governance of the gold extraction sector, especially its taxation, which in turn can provide lessons for combating the operation of the shadow state more generally.

Better understanding of taxation practices

The first issue policymakers should address is to better understand how taxation in the gold sector is organized. A good illustration of this point is a deliberate contradiction between these realities (in terms of number, entities involved, practices) and the opaque reports issued by state agencies, for instance, those from the mining service. Such reports are fundamentally unreliable and disregard crucial issues. Related to this, many studies have documented the political economy of gold mining.\(^{196}\) By and large, this research points to ‘the consistent exploitation, by a small but powerful elite, of Congo’s economic resources’.\(^{197}\) This situation has changed little. Thus, understanding how these elites operate, how they derive benefit from gold taxation and which practices they have developed is the starting point for formalization of the gold taxation sector.

Reform the gold sector to ensure transparency and accountability

The taxation practices—and the use of revenues generated from them—developed by state agents in complicity with military actors are characterized by patterns of opacity and banditry, even though the practices and networks in which these individuals are involved are well structured. Crucial in this respect is that international reforms and interventions continue to be concerned with larger aspects

\(^{196}\) Geenen, *African Artisanal Mining from the Inside Out.*
of linking minerals and conflicts, or the issue of transparency, for instance in contract allocation, taxation and the collection of the mining rents. While some reform initiatives such as the International Tin Research Institute (ITRI) Tin Supply Chain Initiative (iTSCi)\textsuperscript{198} have been deploying considerable efforts in formalizing the 3Ts sector, the artisanal gold sector lags behind these efforts. The fact that the DRC government has adhered to the Extractive Industry Transparency Initiative (EITI),\textsuperscript{199} taking inspiration from the EITI, along with the successes and shortcomings of iTSCi, lays the foundation for designing a reform initiative that targets the artisanal gold extractive industry in terms of improving its governance and taxation structures. In this case, rather than focusing on the transparency of mining corporations, the main entity from which transparency and accountability should be expected is the state and its agencies involved in tax collection. To achieve this, there is a need for creating a transparency initiative for state accountability, exclusively in the gold artisanal extractive sector.

\textbf{Support to civil society organizations}

Working towards improving tax collection in the DRC in general, and particularly in the gold sector, therefore requires a commitment and engagement to the implementation of new transparency mechanisms and accountability schemes at all levels of the state, from the local, to the provincial and national state structures. In other mining sectors, such as the 3Ts, copper and cobalt industries, many civil society organizations are involved in combating predatory taxation and demanding greater accountability from state authorities and extractive companies. Although their efforts run counter to the ingrained economic interests of powerful elites, initiatives to address taxation in the gold sector should therefore take inspiration from existing initiatives such as iTSCi, mapping the lessons learnt in order to strengthen the work of civil society organizations and think tanks doing research on the dynamics of the gold sector or involved in combating informal taxation practices in this sector.

\textbf{Centralize tax collection}

One of the challenges with taxation is that the reach of the Congolese state into the gold sector is very large. A wide array of state actors and agencies, designated or ad hoc, are involved in gold taxation. They operate in semi-autonomous ways and participate in various networks, from the local to the provincial and national level. Thus tax collection is fragmented along state and non-state capture patterns. As a result, the main outcome of this situation is the lack of accountability by the actors and agencies involved in gold taxation. Rather than dealing with a mushrooming of tax collectors and agencies, there is a need for establishing a ‘specialized cell’\textsuperscript{200} within the mining service in charge of levying and centralizing taxes on gold extraction at the mines, as well as at provincial and national levels. This will downsize the scope of the state, address the issue of fragmentation, increase control in the gold taxation chain and lay the foundations for better monitoring and state accountability. In doing so, the revenues from taxes could be used to better pay state agents, while avoiding a widespread practice of \textit{débrouillez-vous} shaping gold taxation.

\textsuperscript{198} The iTSCi was designed by the International Tin Research Institute (ITRI) in 2009 and has been providing a means of determining the origins of 3T and documenting the trading chain of these minerals by tagging and bagging 3T loads at the mining sites or \textit{postes d'achat} (trading posts), counting offices (\textit{comptoirs}) and mineral depots.

\textsuperscript{199} EITI is a voluntary agreement whereby corporate, government and civil society representatives meet to scrutinize independent audits to ensure that the sums the extractive companies claim to have paid to the state match the sums the government claims to have received.

Glossary of acronyms, words and phrases

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>anti-fraude</td>
<td>Anti-fraud</td>
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<tr>
<td>ANR</td>
<td>Agence nationale des renseignements (National Intelligence Agency)</td>
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<td>ATM</td>
<td>Attestation de transport des minerais (certificate for mineral transportation)</td>
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<td>Balighi chef de groupement</td>
<td>Chief of Balighi, an administrative area consisting of several villages</td>
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<td>brigade minière</td>
<td>Mining police</td>
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<td>cartes des creuseurs</td>
<td>miner permit form</td>
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<td>carte des négociants</td>
<td>trader permit</td>
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<td>chef de poste</td>
<td>Municipal authority</td>
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<tr>
<td>comptoir</td>
<td>Trading post</td>
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<tr>
<td>EITI</td>
<td>Extractive Industry Transparency Initiative</td>
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<td>DGI</td>
<td>Direction générale des impôts (Income Tax Agency)</td>
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<td>DRC</td>
<td>Democratic Republic of the Congo</td>
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<td>DPMER</td>
<td>Direction provinciale de mobilisation et encadrement des recettes (provincial tax authority)</td>
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<td>entrée mine</td>
<td>entry permit</td>
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<tr>
<td>FARDC</td>
<td>Forces armées de la république démocratique du Congo (Armed Forces of the Democratic Republic of the Congo)</td>
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<td>FCC</td>
<td>Front Commun pour le Congo (Common Front for Congo)</td>
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<td>garde privée de sécurité</td>
<td>private security guard</td>
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<td>ITRI</td>
<td>International Tin Research Institute</td>
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<td>iTSCi</td>
<td>Tin Supply Chain Initiative</td>
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<td>loutriers</td>
<td>washing parcel</td>
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<td>Mairie</td>
<td>Mayor</td>
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<td>MGL</td>
<td>Ministre des grands lacs (Great Lakes Mining)</td>
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<td>motopompe</td>
<td>motor pump</td>
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<td>mwami</td>
<td>paramount customary chief</td>
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<td>négociants</td>
<td>registered brokers</td>
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<td>ninja</td>
<td>(Japanese) slang term for artisanal miners</td>
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<td>notables</td>
<td>leaders</td>
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<td>poste d’encadrement administratif</td>
<td>Municipality</td>
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<tr>
<td>rapportage</td>
<td>reporting; a practice whereby lower-level functionaries are obligated to generate revenue for their hierarchies</td>
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<tr>
<td>ravitaillement militaire</td>
<td>military supply tax</td>
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<tr>
<td>RCD</td>
<td>Rassemblement congolais pour la Démocratie (Congolese Rally for Democracy)</td>
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<tr>
<td>SAEMAPE</td>
<td>Service d’assistance et encadrement des mines artisanales et à petite échelle (Assistance Office for Artisanal and Small-Scale Miners)</td>
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<tr>
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<td>Service d’assistance et d’encadrement du small-scale mining (Assistance Office for Artisanal and Small-Scale Miners)</td>
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<td>Sakima</td>
<td>Société Aurifere du Kivu-Maniema (Kivu-Maniema Gold Company)</td>
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<td>Somico</td>
<td>Société Minière du Congo (Congo Mining Company)</td>
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<td>Sominki</td>
<td>Société minière et industrielle du Kivu (Mining and Industrial Company of the Kivu)</td>
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<td>trafic d’influence</td>
<td>influence peddling</td>
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<td>tuyau</td>
<td>pipeline</td>
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Bibliography


THE SHADOW STATE IN UGANDA: AT MUSEVENI’S SERVICE

Lisa Rolls
3. The Shadow State in Uganda

1. Introduction: The Shadow State in Uganda

Economic and political power in Uganda is mediated through a network of individuals, most of whom are closely linked to President Yoweri Museveni and his family. These linkages include blood, marriage, kinship and the shared experience of those who served in the liberation struggle, known as the Bush War.¹ Museveni’s political regime, which rules Uganda through the National Resistance Movement (NRM) government, rests on two main pillars: Military officers and an extended quasi-royal family. This system has evolved over three decades but is becoming increasingly fluid, perhaps unstable, as generational change impacts the regime. This includes the departure (through death or retirement) of figures previously central to the growth and evolution of the system.

The Ugandan shadow state network is largely curated by the first family, which derives its power from the president. The image of a monarchy, with a strong military influence, has been used to describe the near absolute control over the state and vital sectors of the economy held by Museveni and his extended family. This also applies to ambitions for dynastic renewal through Museveni’s son, Muhoozi Kainerugaba – even though the incumbent monarch himself seems the least enthusiastic proponent of such as he appears rather indifferent to who rules after his intended life presidency.

This report describes the principal modalities underlying and shaping the Ugandan shadow state.² Due to a still weak private sector in the country, control over and access to state resources are the key sources of wealth and power. Many shadow state actors occupy formal positions in government or the Ugandan state bureaucracy. Their powers and influence, however, often significantly exceed what would be expected from the official mandates of their positions.

The sustenance of this vast patronage state and security sector requires prohibitive amounts of money. Museveni is not by nature a kleptocrat but he does facilitate opportunities for family members and other close associates to build up their wealth, often through corrupt practices. Generally, shadow state actors in the Museveni system are granted the freedom to pursue economic, political and social interests for their own benefit. They are permitted to do this provided that these pursuits directly or indirectly benefit the perpetuation of the NRM system.

Where there are political or financial kickbacks that benefit the system, Museveni tolerates large-scale corruption and other illicit economic activities. The precise terms and conditions of the transactional relationships between members of the shadow state and core actors in the regime mostly remain opaque. It is apparent, however, that non-core shadow state actors are obliged to raise campaign funds, rally political support through patronage or leverage traditional charismatic or bureaucratic authority and participate in meting out punishment on critics.

In ethnic terms, the composition of the shadow state is extremely narrow, particularly at the top, where it is almost exclusively limited to Museveni’s fellow Banyankole, especially from his Bahima sub-clan. It is more ethnically diverse at the level of political fixers, bringing on board diverse

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¹ This refers to the National Resistance Army (NRA) liberation struggle against the second Obote government between 1981 and 1986. The use of the term liberation (struggle) does not imply a normative connotation but adopts common language used by the regime.

² This report is based on more than 30 key informant interviews, and informed and supported by local and international media coverage, academic literature on governance and elite corruption, publications by civil society organizations and advocacy groups and government documents.
constituencies. The reach and competency of shadow state actors vastly differs, even if linked to the first family through blood, marriage, kinship or shared biographies. Some actors are groomed by the system; others are co-opted if useful or posing a potential threat.

Political fixers—politicians, business (wo)men, religious and cultural leaders, and military officers — link the shadow state core to grassroots constituencies through clientelist networks and serve to identify political opportunities and threats. Civil servants facilitate the shadow state in many ways. Some directly serve the president or the system, while others primarily facilitate private interests of shadow state actors, who in turn have obligations to the system. With the exception of military officers, the competence of most actors is delineated within particular sectors or defined by specific tasks, by merit of their position in the state, society or economy, or their personal skills and proficiencies. The number of actors with national level authority is relatively small but this is underpinned by a wide network of sub-regional actors with limited reach. The network of political fixers, business brokers and bureaucratic facilitators is much more fluid than the shadow state core, the president and his close family.

An ever-distrustful Museveni skilfully plays ambitious cadres and vested interests against one another to contain and control their influence and prevent the emergence of alternative centres of power. Trusted cadres, young and old, are empowered by the president and once they threaten to become too powerful or ambitious in their own right, or have outlived their immediate usefulness, are eliminated—albeit often only temporarily. Ultimately, all shadow state actors are expendable and Museveni frequently cuts shadow state actors loose, depriving them of access to economic, social and political resources. A small number of figures, including his younger half-brother, retired General Salim Saleh, wield enough power to critically destabilize the system or put up resistance if the president chose to sanction them.

The first part of this report sketches the forces that have shaped the Ugandan shadow state. It shows how central figures are linked through the shared liberation experience, blood, marriage and ethnicity. The second part uses three examples—the raiding of the public purse by State House, government–business relations and the emergence of a rejuvenated system—to demonstrate the operating principles of the shadow state. The final section discusses the impact of shadow state activity on democratization and the delivery of public goods.

2. The Museveni system

The system that emerged in Uganda following the end of the liberation war in 1986 is often referred to as *Pax Musevenica*. This system is engineered by the president and sustained by a shadowy network of power and money: The shadow state. It is curated, patronized and sanctioned by Museveni and his hegemonic ruling party, the National Resistance Movement (NRM), which reaches into all aspects of the life and state. This section outlines the evolution of the shadow state and sketches the core of the Museveni monarchy. It also describes the two main interlocking pillars—the military aristocracy and the extended quasi-royal family—upon which it rests.

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3 Interview with intelligence officer, Kampala, 29 April 2019.
4 Interview with lawyer 1, Kampala, 30 April 2019.
5 Interview with NRM operative, Kampala, 15 June 2019.
The first family

The core of the shadow state is made up of the seventy-five-year-old Museveni and close family members. These are his younger half-brother, retired General Caleb Akandwanaho (known as Salim Saleh), Museveni’s son (often referred to as the first son), Lieutenant General Muhoozi Kainerugaba, who is currently the commander of the land forces of the Uganda People’s Defence Forces (UPDF) and Museveni’s wife, education minister Janet Kataha Museveni.

Salim Saleh. Salim Saleh is a pervasive presence in the Ugandan shadow state. Despite having no formal senior position in government (he is notionally a senior presidential adviser on defence) Saleh is often referred to as the deputy president. Before his health deteriorated some years ago he was considered to be Museveni’s most likely successor. While Museveni is known as a stern disciplinarian, Saleh is approachable, widely liked and respected rather than feared, although notorious for corruption and shady deals. Investigations prominently named him in Ugandan military officers’ involvement in illegal exploitation of natural resources during the war in eastern DR Congo in the late 1990s and early 2000s.

Due to his ability to engage freely with people from all walks of life, Saleh has become Museveni’s informal chief mediator and is often despatched by his brother to talk to errant constituencies, rivals or the military. Saleh, who was the first post-war army commander, is also effectively the deputy commander-in-chief of the Uganda People’s Defence Force (UPDF) and the informal commander of the reserve force. He is consulted on all major defence decisions, including promotions and appointments. Saleh also advises the president on cabinet and other civilian appointments.

As well as these informal but highly influential roles, Saleh heads the military-led nationwide agricultural development programme, Operation Wealth Creation, which controls vast funds and is riddled with nepotism and patronage. In the business world, Saleh’s activities in recent years have focused on industrialization, agriculture and mining, while he also retains interests in other sectors, such as defence and the gold trade.

Muhoozi Kainerugaba. Museveni’s only recognized son, Land Forces Commander Lt. Gen. Muhoozi Kainerugaba, has since 2012 been dubbed his father’s potential successor. The alleged plot to groom Muhoozi Kainerugaba for succession, the ‘Muhoozi project’, in 2013 caused the public fall-out of a prominent general and widespread tensions in the army. In character, Muhoozi is a mixture of his father and uncle, Saleh, to whom he is close, but he lacks the political astuteness of either. Since the late 1990s, when he graduated as a cadet, Muhoozi has been groomed to rise to the top of the armed forces. He served as the head of the UPDF special forces from its inception in 2008 until 2017 and from December 2020 until June 2021. In between, he served as senior presidential adviser on special

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8 Interview with lawyer 1, 30 April 2019; university lecturer, Kampala, 13 December 2006.
13 Saleh heads Operation Wealth Creation, a military-led national agricultural development programme that has deteriorated into a patronage scheme. Interview with economist, Kampala, 1 May 2019.
operations. In February 2019, he was promoted to lieutenant general.\(^\text{15}\) Initially uninterested in a political career but bound by the dynastic destiny ascribed to him by segments of the shadow state, Muhoozi appears to have developed a taste for power (and business) and his influence has grown steadily.\(^\text{16}\) His elevation to successor designate is reflected not only in his burgeoning military career but also in conscious attempts to heighten his public profile outside the military role, from sports to diplomacy and development projects.\(^\text{17}\)

**Janet Museveni.** This military–political triad of Museveni, Saleh and Muhoozi is complemented by Museveni’s wife, Janet, the minister for education, who is also believed to have designs on the presidency, although is generally unpopular in the country.\(^\text{18}\) Janet has cultivated a vast network of relatives and allies in strategic positions in the state bureaucracy, parastatals and the private sector. After first running for parliament in 2006, she was appointed state minister for Karamoja in 2011, the most underdeveloped but mineral rich part of the country. She was promoted to education minister in 2016, a position that controls a huge budget and tens of thousands of teachers.

A fervent born-again Christian, Janet is known to be fiercely protective of her children and their marriages. In political circles, becoming a born-again Christian is known to curry favour with the first lady. Unlike her husband who shows little appetite for business beyond cows, Janet is a tough businesswoman. One indicator of her power is the almost daily appearance of her image and accompanying articles in the partly government-owned *New Vision* newspaper.\(^\text{19}\)

Intra-familial power dynamics are unclear and appear somewhat fluid. The nuclear Museveni family may be united in its pursuit of the perpetuation of control over the Ugandan state and resources\(^\text{20}\), but family life is not free from tensions. Personalities clash and family members might disagree on political strategy and succession. As with other shadow state actors, attempts by family members to expand their power beyond Museveni’s control may be contained and reprimanded.

**The military aristocracy**

Since the Bush War, the military has been integral to the NRM state, its political trajectory and economy. Museveni considers the military as capable of protecting his interests, and those of the system, in just about any capacity. Unlike civilian shadow state actors, military actors are not bound to specific functions or sectors. They are tasked—formally and informally—with a broad range of assignments across all sectors of state and society. This includes staffing positions in civilian intelligence services, the police and immigration, and serving as the president’s superintendents of districts (resident district commissioners) or in the cabinet, ministries and the revenue authority, in agricultural development programmes and on the board of the state broadcaster.\(^\text{21}\)

Although the constitution requires them to retire first, active duty generals have served as cabinet ministers as the president’s wish has always prevailed over the constitutional concerns of parliament. Senior military officers or those personally close to the triad of the military monarchy may command

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15 ‘Museveni promotes son, more than 2,000 army officers’, *The East African*, 8 February 2019.
16 Interview with economist, Kampala, 1 May 2019; interview with intelligence officer, Kampala, 29 April 2019; interview with journalist, Kampala, 24 April 2019; and interview with foreign correspondent, Kampala, 24 November 2018.
17 This includes, among others, publishing a book on the liberation struggle, supporting sports teams and meeting a young traditional leader to encourage the support of the latter for youth-focused government development schemes.
19 Interview with journalist, Kampala, 25 April 2019; and Interview with lawyer, Kampala, 30 April 2019.
20 Interview with journalist, Kampala, 25 April 2019.
authority in their home regions. For example, third deputy prime minister, retired Major General Moses Ali, whose rebellion against the Obote government in north-western Uganda later joined forces with the National Resistance Army (NRA), is a political and economic heavyweight in West Nile sub-region, and especially among his Madi community—the anchor of the regime in a marginalized region.

Until the early 2000s, the military aristocracy was overwhelmingly composed of the old guard of the revolution, with veteran commanders holding a measure of authority independent of Museveni. The president purposely moved to restrain their influence, grooming more junior Bush War fighters who rose to the top of the military hierarchy when intra-elite friction and popular opposition increased. In 2008, the Presidential Guard Brigade under the command of Muhozi was subsumed by the newly created Special Forces Command (SFC), which progressively grew in size and capacity. At present, they have de facto control of all strategic military assets. Crucially though, even within SFC structures, formal command positions are often incongruent with the effective command powers assigned by the president.

Following tensions in the military over the alleged project to groom Muhozi, Museveni’s son, for succession and the expansive growth of the SFC at the expense of regular UPDF forces, a generation of military officers who joined the NRA in 1985 shortly before the end of the war or in the early post-war years, have been empowered. Top senior UPDF commanders today all previously served in the Presidential Guard Brigade. Besides this crop, most of the current trusted military cadres are Museveni’s son’s contemporaries. Several are sons of liberation fighters, and many hail from Kiruhura, the president’s home district. Several are linked to the Museveni nuclear family through blood or marriage.

Some of the most powerful contemporary military figures, including Lieutenant General Wilson Mbadi (chief of the defence forces) and Major General Leo Kyanda (joint chief of staff), are rumoured to be Museveni’s illegitimate sons. Whether or not that is true – it’s nearly impossible to substantiate – it highlights how much the public associates the Museveni state with family rule.

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22 For example, such actors include General Otema Awany in Acholi West or Lieutenant General Angina in Teso. See: Joseph Olanyo, ‘Bamugemereire issues warrant of arrest against Gen Otema’, The Observer, 3 September 2018.
25 This included, for example, the former Chief of Defence Forces, the late General Aronda Nyakairima, who held the position for more than a decade and former Inspector General of Police, General Kale Kayihura. See: Andrew M Mwenda, ‘The fall of Kayihura’, The Independent, 12 March 2018; and Haggai Matsiko and Ivan Rugambwa ‘How Museveni uses the army’, The Independent, 26 July 2013.
27 For example, Matthew Ikondere, who is an assistant to the first son, too, is the son of a deceased ‘historical 27’ fighter; see: Dennis Katungi, ‘My heroes are NRA soldiers’, New Vision, 8 June 2018.
28 For example, trusted SFC cadre Allan Matsiko is a brother of foreign minister Kutesa’s son-in-law, Albert Muganga.
Loyalty versus disloyalty. The empowerment of security actors poses the biggest risk of alternative centres of power emerging within the Ugandan system. To guard against this, Museveni employs divide-and-rule tactics, with the balance of power between different security agencies and actors frequently changing over time. But Museveni’s increasing reliance on repression by security forces makes him vulnerable as they grow more powerful and act with impunity. A recent example of the criminalization of the security shadow state was the emergence of a virtual mafia of criminalized police officers under the then Inspector General of Police (IGP), General Kale Kayihura. Kayihura had overseen a massive growth of the police budget, which came in the context of the increased politicization and militarization of the police after the return to multiparty politics in 2005. This drive intensified after the fallout with two NRM heavyweights, General David Sejusa and then Prime Minister Amama Mbabazi, in 2013–2014, which raised prospects of a political challenge to Museveni (Mbabazi ran for president unsuccessfully in 2016).

Kayihura developed personalized command structures and raised other non-statutory security agents who served as an informal extension of the police. This included the Crime Preventers, a militia-style outfit of civilians charged with aiding the police with intelligence gathering. Hundreds of thousands of Crime Preventers passed out at huge rallies prior to the 2016 election. They worked at NRM rallies and mobilized or coerced people into supporting the ruling party during the elections. In some cases, they were able to overrule ranking police officers.

Empowered by Museveni, Kayihura used his position to build a shadow network that eluded and undermined Museveni’s direct control. Kayihura, whose power now extended beyond the police, was suspected of having political ambitions and being too close to the Rwandan government at a time of heightened tensions between Kampala and Kigali. After his sacking in March 2018, he was arrested and charged with various offenses before a military tribunal. In September 2019, the US imposed sanctions on Kayihura over human rights abuses and corruption.

Museveni often tolerates the most brazen corruption of those whose loyalty (and lack of political ambitions) is certain and who are instrumental in the shadow state architecture. This is well demonstrated in the case of chief of staff of the land forces, Major General Leo Kyanda, who has variously been associated with criminal activities, including armed robberies, fraud and narcotics. In late 2016, it was reported that Kyanda became involved in an attempt to scam a group of Polish investors that was conducted in the board room at the headquarters of the land forces. Following this, Kyanda was sent off to India for one year of training, then reinstated, and in February 2019 promoted to major general.

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31 In September 2019, the US imposed sanctions on Kayihura over human rights abuses and corruption.


Museveni often punishes and then rehabilitates shadow state actors who he sees as having gone astray. This may include expressing political criticism or ambition, or transgressing the corruption threshold. Once ‘perpetrators’ have repented, stripped of their power and privilege, if useful to the regime, they are welcomed back to a regime newly assured of their loyalty. Now retired, Lieutenant General Henry Tumukunde was revived and given a prominent security and mobilization role in 2014, after almost a decade in the cold following public criticism of the president in 2005.\(^{35}\) (He later fell out with the president again and ran against him in the 2021 polls). Former Prime Minister Amama Mbabazi who challenged Museveni to the presidency in 2016, has recently also been brought back in the fold.\(^{36}\)

*The extended family*

Family relations loom large in the post-revolutionary *Pax Musevenica*. Proximity by blood and influence do not necessarily correlate, however.\(^\text{37}\) Relations by marriage, mostly within the Ankole region, importantly shape the extended Museveni family.\(^\text{38}\) In the curated power network of blood and marriage relations, the influence and competence of actors varies over time as the president patronizes, sanctions and rehabilitates them. Inevitably, these politico-economic elite networks concentrated in south-western Uganda incorporate the families of veteran politicians and military commanders who have since fallen out with the regime, including long-time opposition leader Kizza Besigye.\(^\text{39}\) Links with those have not been complete cut, as they share these social circles – involving for example meetings at weddings and funerals of elite families in the western regions of Ankole and Kigezi. In September 2021, the Ugandan public learned of the upcoming wedding of the son of retired Lt. Gen. Henry Tumukunde, who challenged Museveni in the 2021 election, and a daughter of the president (outside his marriage with Janet).\(^\text{40}\)

*Janet’s relatives.* Janet has cultivated her web of relations in the Museveni system. The web of Janet’s relatives spans diplomacy, military, commerce, parastatals and State House. Not everyone in this familial network is particularly influential. Some have carved out an area for themselves to prosper but remain at the disposal of the regime, while others in security, State House and the business sector play critical roles for regime stability.\(^\text{41}\) Among the more influential are, for example, veteran NRA commanders Henry Tumukunde and current national security minister, retired Major General Jim Muhwezi, who are married to cousins of Janet. The brothers of Muhwezi’s wife are Bob Kabonero, a powerful businessman and broker who has interests in oil and gas, telecommunications and casinos,\(^\text{42}\) and Richard Kabonero, one of Museveni’s most high-profile diplomats in the region. Minister of State for animal industry, retired Colonel Bright Rwamirama, is also a cousin of Janet, and has interests in the beef industry.\(^\text{43}\) Janet’s relative Hannington Karuhanga sits on several boards, including Airtel and the Uganda Coffee Development Authority, formerly chaired Stanbic Bank and is


\(^\text{37}\) Museveni’s sisters occupy strategic but less powerful roles. Miriam Karugaba has been an administrator at State House. In 2018, Violet Kajubiri Froelich was appointed deputy chairperson of the Education Service Commission. See: Moses Mugalu, ‘Museveni appoints sister deputy chair of Education Commission’, *The Observer*, 20 July 2018; and Baker Batte Lule, ‘Dr Kajubiri, Museveni’s little known sister with rich CV’, *The Observer*, 14 December 2016.

\(^\text{38}\) Interview with civil society representative, Kampala 24 April 2019; interview with human rights activist, Kampala, 7 June 2019.


\(^\text{40}\) ‘It is true – Gen. Tumukunde speaks out on his son marrying President Museveni’s daughter’, Eagle Online, 7 September 2021, [https://eagle.co.ug/2021/09/07/it-is-true-gen-tumukunde-speaks-out-on-his-son-marrying-president-musevenis-daughter.html](https://eagle.co.ug/2021/09/07/it-is-true-gen-tumukunde-speaks-out-on-his-son-marrying-president-musevenis-daughter.html)


\(^\text{43}\) Interview with business journalist, Kampala, 15 May 2019.
a major player in the cement industry. Janet’s relatives in State House include, for example, the president’s former legal aide, Justus Karuhanga, the president’s long-time political adviser and Premier Dairies owner, Moses Byaruhanga, who is married to Janet’s cousin, Peace, and State House president’s former legal aide, Justus Karuhanga, the president’s long-time political adviser and Daily Monitor set up new plants in Tororo’.

Sam Kutesa. One of the most consistent and powerful shadow state actors is former long-time foreign minister, Sam Kutesa, whose late wife, Jennifer, is a relative of Janet Museveni and whose daughter, Charlotte, married Muhoozi Kainerugaba in 1999. A prominent Democratic Party politician who served as attorney general under the brief military government preceding the NRA takeover of power, Kutesa served in various cabinet posts since joining parliament in 1996, despite perennial implication in large-scale corruption scandals.

With no political ambitions outside his native Sembabule region, Kutesa preferred to focus on diplomatic engagements that facilitate his manifold business interests at home and abroad, closely associated with nuclear first family interests. In 2018, a US court case documented Kutesa’s receipt of a USD 500,000 bribe from a businessperson lobbying for a Chinese energy consortium during tenure as president of the UN General Assembly 2014–2015. Kutesa has since not travelled to the US. Besides a vast real estate portfolio, Kutesa’s deeply entrenched business interests, often in joint ventures with international investors, include the Entebbe airport ground handling services, ENHAS (Entebbe Handling Services), which also services UN contracts. He was dropped from cabinet in 2021 after serving as minister of foreign affairs for almost fifteen years, with a brief interruption in 2014-2015 when he was suspended over corruption. As Kutesa’s political star faded, his children have entered the stage of politics and diplomacy: a daughter – with a little help from Museveni – was elected into parliament in 2021, two others were appointed honorary consuls of Israel and Oman to Uganda respectively.

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48 Kutesa is an ethnic Munyankole from Sembabule in Buganda.
51 Roger Tangri and Andrew M Mwenda, The politics of elite corruption in Africa: Uganda in comparative African perspective, Abington, Oxon: Routledge, 2013, 58, 61, 125, 171. ENHAS was officially sold on in 2018. Kutesa has reportedly been grooming his son-in-law, Albert Muganga (whose brother Allan Matsiko is an SFC officer), to take over his businesses. Muganga has strong interests in logistics and petroleum marketing, co-owning Kenlloyd Logistics, which is a partner of the German logistics company, DB Schenker.
53 Derrick Kiyonga, ‘Have the curtains closed on Kutesa’s 40-year political journey?’, Daily Monitor, 20 June 2021.
54 Ibid.
Saleh’s Relations. Saleh’s wife, Jovia Akanwanaho, is an eager and feared businesswoman who has variously been linked to illicit business, from diamonds to narcotics, and alongside her husband, was prominently named in the illegal exploitation of natural resources in the Democratic Republic of the Congo in 2001. 55 The UN group of experts mentioned allegations against Jovia of orchestrating the Kisangani war in 1998, in order to take control of the local diamond trade. 56 In 2005 and 2013, Jovia, who also has interests in private security firms, real estate and gastronomy, was named in illegal land evictions in Ankole and near Entebbe, respectively. 57 In 2013, Jovia threatened an activist over his investigation into the degree of governor of Mombasa, Kenya—Ali Joho—who is notoriously linked to the narcotics trade. 58 In July 2019, heads of the Kenyan–Indian Akasha cartel implicated an unnamed sister-in-law to Museveni as a key collaborator in drug smuggling. 59

Saleh and Jovia’s daughter, Esteri, manages several of the family business interests, from hotels to real estate, and co-owns the production company, Isaias 60, with Museveni’s daughter, Natasha. 60 Jovia’s close relatives, businesspeople Kellen Kayonga, treasurer of the Uganda Chamber of Mines and Petroleum, and Barnabas Taremwa, are well-known players in the mining sector. 61

The sons-in-law. Over the past decade, two of Museveni’s sons-in-law 62 have grown into well-known businesspeople dabbling in various interests, seizing opportunities afforded to them by virtue of their marital relations. 63 Unlike their husbands, the three daughters of Janet and Yoweri—Patience, Natasha and Diana—keep a relatively low public profile in business, not least to keep clean reputations. 64 The sons-in-law pursue their own business interests but also serve as agents for the extension of first family control over strategic business sectors. Most ambitious in politics and business is Odrek Rwabwogo, husband to the born-again pastor, Patience, whose church—furnished in ruling party colours and heavily guarded by SFC soldiers—is well attended by politicians. 65 After Rwabwogo’s attempts to gain a foothold in the NRM hierarchy met with stiff resistance from the old guard, he focuses on his many profitable business interests, ranging from joint ventures with international

59 Interview with lawyer, Kampala, 2 June 2019; and interview with journalist, Kampala, 24 April 2019.
61 Geoffrey Kamuntu, Edwin Karugire, Odrek Rwabwogo.
62 Interview with civil society activist, via WhatsApp call, 7 July 2019; and interview with media executive, Kampala, 25 April 2019.
63 Interview with male business person, Kampala, 6 June 2019.
investors in the dairy industry to lucrative government contracts in water, sanitation, roads, public relations and labour export.66

Edwin Karugire, the husband to aspiring movie producer, Natasha, runs a joint law firm—K&K Advocates—with Kiryowa Kiwanuka, who also sits on the board of the Petroleum Authority of Uganda.67 The law firm is said to handle personal family business and clients referred by State House, including international investors in the Ugandan oil and mining sectors.68

Beyond Ankole. Outside his home in the Ankole region, Museveni has forged strong ties with select families, which have been ‘guided and tested’, and inhabit prominent positions in the local social, military and business establishment.69 This includes families in other parts of western Uganda, most importantly Kigezi, Tooro, and Bunyoro, as well as from the Banyarwanda ethnic group. In Bunyoro, the Musevenis are closely tied to the family of long-serving cabinet minister, Henry Kajura. When Kajura’s granddaughter was kidnapped and murdered in 2017, the president effected several measures to combat insecurity, including SIM card re-registration.70 An NRM pillar in the region reigned over by the traditional Tororo kingdom is the family of the recently deceased matriarch, Constance Muhangazima, a former kingdom official and long-time Museveni supporter.71 Her offspring figure prominently in the (rejuvenation of) the NRM shadow state: Andrew Mwenda, once a famed opposition journalist and, for some time, Kampala’s informal top diplomat in Kigali, has subsequently become a close friend to the president’s son, Muhoozi. Mwenda’s brother, Brigadier General Kayanja Muhanga, currently second division commander, has been entrusted with sensitive military missions in Somalia and South Sudan, and most recently, supervision of Kampala security after contested elections in early 2021.72 Their sister, Margaret Muhanga, is a loyalist ruling party member of parliament who was embroiled in a scandal about the fraudulent sale of public land in Kampala, alongside her brother-in-law, controversial businessperson and NRM financier, Hassan Basajjabalaba.73

In non-western regions, family members of tried and tested NRM supporters are incorporated, if less so through intermarriage. For example, Richard Todwong, the younger brother of UPDF reserve force commander, Major General Otema Awany, in Acholi West, rose from being an officer at the Uganda Revenue Authority (URA) to presidential adviser before being appointed NRM secretary general in 2021.74 Where the first family has links to families from other regions, rumours often allege hidden blood relationships.

The network of extended family and close confidantes that the shadow state core is enmeshed in, handles investor relations, forges joint ventures with foreign companies, deals in logistics and trade – and defence. Despite including State House affiliates and military officers, many are not eminently political, and – save for Saleh and Kutesa – stay out of the limelight. The figures Saleh and Kutesa


67 Interview with male business person 2, Kampala, 6 June 2019.

68 Interview with journalist, Kampala, 8 May 2019; and interview with media executive, Kampala, 25 April 2019.

69 Interview with military officer, Kampala, 25 April 2019.


71 In the months before her death in June 2019, the president and Salim Saleh paid courtesy visits to Muhangazima’s home. Lieutenant General Muhoozi Kainerugaba delivered one of the eulogies at her funeral.


underscore how deeply the shadow state is intertwined with the party-cum-family network that has captured the state.

3. The Shadow State at work

The shadow state is omnipresent in the politics and economy of the country, with a complex web of relations stretching from the military to churches, the first family and local districts. Ascertaining the relative power and influence of different actors, and unpacking the terms and conditions of their collusion, can be challenging. The Ugandan shadow state below the level of the first family is a fluid entity. Actors at its lower levels—especially ruling party officials, facilitators in the bureaucracy and sub-regional political fixers—are easily disposed of and replaced once they have exhausted their usefulness to central actors. Due to the obscurity and fluidity of the shadow state at many levels, perceptions of the relative power and influence of individuals in the larger network differ, often significantly.

The Shadow State as a financial resource

Having cultivated a pervasive commercialization of politics, simply keeping the Museveni system in power requires extensive financial resources. The ruling party coffers have been empty for years, and even the president’s generous budgets for donations, classified expenditure and so forth, cannot quench the thirst of the vast patronage network.75 The Office of the President and State House creatively and informally collect funds from a wide range of public and private, licit and illicit sources.76 Sustaining this requires the collaboration of civil servants. The system must also harvest donations from the private sector, in return disbursing opportunities and favours. In recent years, demographic change and new political challenges have given rise to a network of younger cadres in business, media and State House—shadow state actors in the making.

Supplementary and classified budgets fund the system as much as diversion of budgets and revenue from other public sources, and donations.77 Raiding the public budget requires the collusion of bureaucrats, such as permanent secretaries and heads of revenue collecting agencies, statutory authorities and major parastatals—bureaucrats who can manipulate procedures and use public resources for partisan political mobilization.78 Key facilitators are free to accumulate enormous personal wealth, which in turn obliges them ever more. Some state actors are also strategically placed to orchestrate the manipulation of government finances, working jointly with private individuals.79 Often, these are respected and highly qualified professionals, yet their appointment obliges them to contravene the ethics of the same professional credentials that got them hired.80 In 2014, Bank of Uganda (BoU) governor, Emmanuel Tumusiime-Mutebile, admitted that he had been ‘misled’ to finance election campaigns from BoU coffers, contributing to massive inflation immediately after the 2011 polls.81

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77 Alliance for Campaign Finance Monitoring, ‘Extended Study’, xii; and interview with CSO executive, Kampala, 25 May 2019.
78 Interview with human rights activist, 7 June 2019.
79 Interviews with lawyer, Kampala, 4 May 2019; interview with business person 1, Kampala, 21 May 2019; interview with journalist, Kampala, 24 April 2019; interview with civil society representative, Kampala, 24 April 2019; interview with media executive, Kampala, 25 April 2019; interview with intelligence officer, Kampala, 29 April 2019; and interview with former NRM official, Kampala, 3 May 2019.
80 Interview with economist, Kampala, 1 May 2019.
81 Daniel K Kalinaki, ‘Mutebile lifts the lid on patronage and electoral financing in Uganda’, The East African,
At the head of revenue collecting bodies – URA, KCCA - and overseeing key budget votes – the Permanent Secretaries in defence, and health - are qualified, and tested professionals, most of whom are women personally close to Museveni. Indirect or direct control of big budget votes implies an expectation to raise funds for the regime as needed.

**The kickback economy: Business and the shadow state**

Power in the business sector has not been as concentrated as in politics and the military, although the grip of the first family is tightening. As detailed above, the business sector of the shadow state substantially overlaps with the extended network of the politico-military core of extended family relations but also features some more independent actors. A mutually beneficial relationship exists between President Museveni—in search of economic development and regime survival—and businesses that rely on government favours and public contracts for survival and growth.

Museveni’s quest for control of the private sector is not least motivated by the potential threat independent wealth poses, due to its possible use for mobilizing political opposition. Private businesses that are vital to the economy offer sizable kickbacks or help to cover up first family interests. The established manufacturers usually maintain a limited patronage relationship with the regime—wary of being linked too closely to politics but also conscious that the absence of any relationship with the powers that be may sow suspicion on the latter’s behalf. This may allow them to exercise some leverage and exert concessions from the state. Businesspeople who initially made their wealth independently, are sought to be roped in once they surpass a particular threshold of economic magnitude. The degree of incorporation in the shadow state varies but given that independent wealth is seen to pose a potential threat to the regime, virtually all major companies maintain some patronage relationship with it. In principle, the more valuable and strategic the resources, from oil to land, the tighter the grip of core shadow state actors; whether as direct beneficiary or gatekeeper who indirectly controls and benefits.

With oil production yet to start and the mining sector still nascent (but already hotly contested), international corporations play a role in the shadow state mainly as a source of kickbacks and joint investment opportunities. Rivalries, conflicts and competition are rife in the award of lucrative government contracts or licenses, from telecommunications to mining. Domestic and foreign commercial interests cultivate allies in the bureaucracy, the cabinet and at State House to manipulate decision-making processes, which are commonly incentivized by substantial kickbacks. Salim Saleh, for example, has forged a strong relationship with Chinese investors—a job previously given to the former prime minister, Amama Mbabazi—attempting to capture the bureaucracy to both further and secure their interests. Chinese companies have been awarded lucrative mining concessions, even
against fierce resistance from the National Environment Management Authority, local communities and parliamentarians.\textsuperscript{31}

Some businesspeople are key financial mobilizers for the NRM party. Prominent examples include Sudhir Ruparelia and the aforementioned Hassan Bassajjabalaba, although the fortunes of both have been mixed in recent years. Sudhir, for a long time popularly considered the richest man in Uganda, has been a close ally of the first family. Still, political and personal fallouts with first family members were cited in the 2017 forced closure and takeover of Sudhir’s Crane Bank, the largest private banking institution in the country.\textsuperscript{92} As of late 2019, Sudhir had the upper hand in the ongoing litigation and had rehabilitated himself in elite circles, not least with the help of paid public relations allies.\textsuperscript{93,94} Some businesspeople donate publicly to the NRM, but many prefer to do so in private.

Beneficiary ownership of businesses that, for example, secure profitable government contracts, obtain mining licenses or are allocated vast swathes of land for investment, is often concealed through a network of proxies. The precise terms of collusion between the shadow state core, beneficiary owners and registered shareholders and directors are difficult to uncover.

**Minerals and energy.** Interests in the oil, gas and mining sectors are often associated with first family members. Value creation in the oil, gas and industrial mining sectors that require skills, expertise and technology not available in the country demand collaboration with external actors. Investors in these sectors are handled by first family members or trustees. Following large-scale corruption scandals, however, Museveni has increasingly taken personal control of these relationships.

Fred Kabagambe Kaliisa, a former long-time permanent secretary in the energy ministry, remains a trusted technical adviser. Since his retirement in 2016, he has served as senior presidential adviser on oil, gas and minerals, and in 2018, was named chairperson for the society of petroleum engineers. His son, Henry Kaliisa, is the chief executive officer of ABMAK Associates, a leading Ugandan law firm serving major foreign clients in energy and mining.\textsuperscript{95}

Janet Museveni’s appointment as state minister for the mineral rich Karamoja region was closely associated with efforts to control mining rights there. The move of the 3\textsuperscript{rd} Division headquarters from the eastern Mbale town to Moroto and the reported presence of Special Forces Command (SFC) soldiers in the gold-rich Mount Moroto area has nurtured allegations of SFC involvement in mining operations on behalf of the first family.\textsuperscript{96}

Yet, with relatively little gold being produced in the artisanal mines of Uganda, much if not most of the gold labelled as Ugandan has been smuggled from conflict zones in Democratic Republic of the

\textsuperscript{91} Matsiko, ‘Messing with Uganda’s minerals’.
\textsuperscript{93} Uganda Radio Network, ‘Sudhir was fed up of Crane bank—Kasaija’, The Observer, 9 February 2019.
\textsuperscript{95} ‘Fred Kabagambe-Kaliisa’s grip of oil sector as tight as ever’, Africa Intelligence, 2 October 2018; interview with business journalist, Kampala, 15 May 2019; and interview with lawyer, Kampala, 2 June 2019.
Congo (DRC), South Sudan and other neighbouring countries. For the past two decades, the gold trade has been in the hands of Indian families and Ugandan individuals closely tied to core shadow state actors, particularly those in the army and first family circles who were involved in the looting of natural resources in the DRC in the late 1990s and early 2000s. 98 Gold exports have surged since controversial Belgian gold trader Alain Goetz launched the African Gold Refinery (AGR), making gold the most valuable Ugandan export in 2017–2018. 99 Goetz’s founding partners in the alleged large-scale laundering of illegally extracted and exported gold were Saleh’s brother-in-law, Barnabas Taremwa, who like his in-law has previously been named in trade of illicit gold from the DRC, and former energy minister, Richard Kajjula, who also chairs the board of trustees of the Uganda Chamber of Mining and Petroleum. 100

The case of the African Gold Refinery with its magnitude and public exposure once again underscored how deeply private—foreign and local—interests, the NRM state and foreign policy are intertwined. In March 2019, however, AGR received and exported more than seven tonnes of Venezuelan gold, flown in on a Russian aircraft. Following US pressure, Ugandan security raided the refinery but Attorney General William Byaruhanga, a prominent lawyer and super wealthy businessman who was appointed to the position in 2016, cleared AGR actions and released the gold. 101

Land. Prominent Ugandans with good favour from the president regularly receive preferential treatment in the development of public land for private benefit. For example, in early 2019, Sudhir Ruparelia launched the expansive high-end Kingdom Kampala complex built on land formerly housing a renowned old public primary school in the heart of Kampala. After the controversial giveaway of the prime public land to a Saudi investor in 2006, ownership changed hands several times in non-transparent ways between investors without any progress with any of the promised developments. 102 The Aya brothers were allocated prime public land near State House in central Kampala to construct a hotel ahead of the 2007 Commonwealth Heads of Government Meeting but only finished construction about a decade later. 103 In the capital, fraudulent or dubious sales of prime urban public land are often linked to business people (mostly men) with close relationships to the first family.

Private security and transport. The private security sector is sensitive to regime security, and a prime avenue for illicit business. Private security firms not only hold tens of thousands of firearms but dominate a labour export market rife with allegations of involvement in human trafficking. 104 Industry pioneer Saracen is closely linked to Salim Saleh and his wife, while his sister-in-law, Kellen Kayonga,

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104 Interview with security source, Kampala, 28 May 2018; interview with foreign investigator, via WhatsApp call, 27 July 2019; interview with journalist, Kampala, 24 April 2018; and interview with foreign security source, Kampala, 6 May 2018.
owns 90 per cent of Askar security.\textsuperscript{105} Other owners of security and labour export companies are Museveni’s daughter, Patience, and her husband, Odrek Rwabwogo (Gideon’s Men Ltd). Former security minister, Muruli Mukasa, former health minister Mike Mukula and UPDF chief of staff of the land forces, Leopold Kyanda, all are involved in security or labour exporting companies.\textsuperscript{106}

A key foreign player in private security is the Israeli businessperson Barack Orland. Besides three security firms (Yamasec, Spartasec and SWAT), Orland until recently co-owned Kampala Executive Aviation and ran Kajansi airfield, strategically located between the capital and Entebbe International Airport and used by private civilian and military contractors.\textsuperscript{107} Orland has business relations as well as personal relations with the UPDF, Muhoozi Kainerugaba and other officers.\textsuperscript{108} The contacts of Orland are evidenced in his public appearances, as for example, hosting the first Armed Forces Appreciation Motocross Championship on Orland’s Uganda Motocross Arena (UMA) in Busiika, was attended by the UPDF top brass.\textsuperscript{109} The UPDF was awarded a 100 million Uganda shilling (ca. 30,000 USD) token of appreciation for participating in the event by Orland, the deputy vice president of the Federation of Uganda Motorsports.\textsuperscript{110} The popular allegation that Orland is a Mossad agent is as telling as it is untrue.

Criminalization of the private sector is not only tolerated but facilitated as long as this reaps benefits for regime stability.\textsuperscript{111} In the 1990s, Danze, a company set up by the ruling party, was engaged in large-scale smuggling.\textsuperscript{112} Notoriously, UPDF officers in collaboration with Ugandan businesspeople heavily engaged in illicit trade and looting of natural resources during the invasions of the DRC in the late 1990s.\textsuperscript{113} Over the years, high-profile Museveni relatives and associates have been linked to the international narcotics trade. In July 2019, for example, testimonies in the trial of the Kenyan–Indian Akasha brothers in the United States revealed the role of a Museveni in-law to assist with the import of ephedrine, which is used for the production of methamphetamine (known as crystal meth).\textsuperscript{114}

Major General Kahinda Otafiire, currently minister of internal affairs and once the NRA chief political commissar in the Bush War, was implicated in illicit trade of timber and gold in the DRC, and is alleged

\textsuperscript{107} Haggai Matsiko, ‘Museveni intervenes in Israel arms dealer case’, \textit{The Independent}, 15 February 2015.
\textsuperscript{110} It is not clear whether the 100m UGX ‘appreciation’ was sourced from FMU or UMA. The press statements all refer to Uganda Motocross Uganda (UMU). The dummy cheque handed over by Barak Orland to the UPDF does not bear the payer’s details. Kampala Sun, 7 October 2019, https://kampalasun.co.ug/2019/10/07/armed-forces-motocross-closes-with-a-bang/; https://www.newvision.co.ug/articleDetails/97341
\textsuperscript{111} See Vlassenroot, Perrot and Cuvelier, ‘Doing business out of war’.
\textsuperscript{112} Kalinaki, ‘Mutebile lifts the lid’; Tangri and Mwenda, ‘Politics of Elite Corruption’, 107f.
\textsuperscript{114} Musau Nzau, ‘Museveni’s kin and Livondo linked to Akasha drug network’, Standard Digital, 27 July 2019.
to retain interests in these resources up to the present.\textsuperscript{115} A key player in the sugar trade, Otafiire has been accused of creating artificial shortages to boost his profit.\textsuperscript{116}

**Tax waivers, compensation and other favours.** Local and foreign businesses that are granted favours such as tax waivers and tax holidays, or generous compensation, reciprocally support the system, most commonly through undeclared cash donations.\textsuperscript{117} As the case of Goetz’s AGR gold refinery operation demonstrates, foreign investors benefit from favourable policies and other incentives offered by government. Partially, these are motivated by Museveni’s drive to spur national economic growth but often they indirectly benefit core shadow state actors, who may have entered into joint ventures (if not formally disclosed) or earn kickbacks from securing such favours.

Perennial tax exemptions or waivers that are harmful to the economy, as well as generous government compensations granted to some companies, are popularly read as an indicator of shadow state activity.\textsuperscript{118} Many of these include Asian or Ugandan–Asian businesses that Museveni considers vital to the economy. Among them is Indian-owned palm oil producer, Bidco, and its subsidiaries, which have been repeatedly mired in fraud scandals and accused of large-scale illegal land acquisitions but nonetheless enjoy steadfast government support and favours.\textsuperscript{119} Manufacturing businesses with the right connections can expect increased import taxes on the products they manufacture. For example, months after Museveni launched a new Chinese ceramics factory in Kapeeka industrial park, which was spearheaded by Salim Saleh, a new 35 per cent import tax on tiles was introduced.\textsuperscript{120}

Award of government compensation or bailouts for local companies too, is popularly associated with ties to the powers that be. in 2018, Several grain traders—a vastly profitable business, especially when contracts to supply the police or armed forces are involved—were awarded compensation worth billions of shillings by the Uganda government after its South Sudanese counterpart did not honour payment obligations. The final list of beneficiaries was hotly contested, alleging that companies with close links to first family members benefitted irregularly and disproportionately.\textsuperscript{121}

Especially in construction and public works, where government contracts offer immense opportunities to siphon funds, first family members are said to have veiled interests in foreign run or owned firms. Somali–Kenyan businessperson, Amina Moghe Hersi, who owns a mall and apartments in central Kampala has also proven adept at getting State House favours, being close to Museveni and fierce to

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\textsuperscript{117} Some established business people overtly donate to the NRM party but most donors remain anonymous and most donations are undeclared. In 2015, business magnates Sudhir Ruparelia, Charles Mbire, Patrick Bitature and Karim Hirji each donated billions of Ugandan shillings for the construction of a new party headquarters, which has yet to start four years later. Mohan Kwanuka and Amos Nzeyi also are NRM financiers. See: Sadab Kitatta Kaaya, ‘Sudhir gives Shs 3bn for NRM house’, The Observer, 29 June 2015; and interview with former NRM official, Kampala, 3 May 2019.


ministers. The government holds a 32 per cent share in her new Atiak sugar factory and has allocated almost USD 20 million to get it to production stage, although construction of the factory has repeatedly been delayed. Amina has been a close associate of Sudhir since first setting up in Uganda. By the time Sudhir’s Crane Bank collapsed, she had loans amounting to up to 39 per cent of the core capital at the bank.

The murky engagements of prominent actors of the kickback economy are the most pertinent indicator of the existence of a pervasive shadow state with functionally differentiated spheres. While for example the consistent award of government favours to a business are indicative of a relationship, the precise nature of these relationships are hard to uncover in full. At the centre of the economic shadow state are maybe a dozen individuals, some of which—like Sudhir—are highly exposed in the public, whereas others consistently shy the limelight. The latter overwhelmingly hail from southwestern Uganda and are closely tied to the first family not only through shared interests but through blood, marriage and kinship.

**Political fixers**

At present, few national level political figures with influence exist, and their number is declining. Former Prime Minister and NRM Secretary General Amama Mbabazi and once trusted security maverick General Sejusa fell out with the regime ahead of the 2016 elections, but the former is dubbed to make a big comeback in 2021.

The overwhelming majority of NRM ministers, whose appointments primarily serve clientelist relationships at sub-regional levels, are politically weak. Instead, control over portfolios and budgets is vested directly in State House, in corresponding statutory authorities or in bureaucrats such as permanent secretaries, who receive direct orders from the presidency.

Ruling party cadres to traditional or re-invented kings and religious or cultural leaders, facilitate and mobilize support for the Museveni regime through a variety of – both legal and illegal – means. At national level, political fixers are concentrated in and around State House and the Office of the President. The overwhelming majority of the more than eighty NRM ministers and state ministers, whose appointments primarily serve clientelist relationships at sub-regional levels, are politically weak. Instead, control over portfolios and budgets is vested directly in State House, in corresponding statutory authorities or in bureaucrats such as permanent secretaries, who receive direct orders from the presidency.

Many of those in the State House sphere who broker political and business deals and fix support from different constituencies are also on the official pay roll. State House staff includes family members and military officers, with huge budgets spent at the discretion of the president, eluding public or parliamentary scrutiny, and powerful positions that mirror and monitor key cabinet ministries, government agencies and civil society. For example, instead of relying on its foreign affairs ministry, which is weak, State House besides a handful of trusted diplomats, primarily depends on the External Security Organization as a shadow foreign affairs apparatus.

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125 Interview with journalist, Kampala, 24 April 2019.
A new media savvy generation of political fixers. At the time of writing, the president’s son, along with a crop of Presidential Guard Brigade and Special Forces Command are at the centre of a dynastic renewal of the NRM shadow state. This is complemented by the entrenchment of (post) liberation elite offspring and their kin and associates in the economy. This has resulted in a heightened sense of state capture by south-western elites.

Some State House old hands remain but a process of generational change is in full swing. Young cadres and entrepreneurs, many mentored by old State House cadres, vie for the president’s attention, promising to deliver the youth vote. For example, powerful decades-long former personal secretary to the president and trade minister until 2021, Amelia Kyambadde, who is related to Sam Kutesa through marriage, has cultivated a handful of rising cadres. Kin Kariisa, a former State House information technology consultant and special presidential adviser on internet and communication technology, is married to her niece, Julie. At present, Kariisa, whose Kin Group oversees interests in media, telecommunications, real estate and ICT, sits on the boards of seven companies and NGOs in Uganda, including Ecobank, and is considered to be part of Muhoozi’s inner circle. Some Ugandan social media users refer to NBS TV as ‘UBC Lite’, a mockery tying NBS to the government Uganda Broadcasting Corporation (UBC). After similar previous allegations in 2016, Bobi Wine in early 2021 in a letter to NBS protested broadcast of allegedly falsified election results in favour of Museveni. The minister of gender, labour and development at the time of writing, and a former revenue authority and State House officer, Frank Tumwebaze, is married to the sister of Museveni’s family physician and health Permanent Secretary Diana Atwine.

Awel Uwihanganye, who until March 2021 headed the Government–Citizen Interaction Centre, a social media government PR tool, is close to Amelia too. Emulating Andrew Mwenda’s efforts to nurture a regime-conformed intelligentsia, Awel founded the think tank, Leo Africa Institute, and, with Amelia’s son Ivan Kyambadde, the Young Achievers Awards, which were strongly supported by the minister. He is also the driving force behind the Africa Strategic Leadership Institute, which organized the first Africa Now Summit in Kampala in 2019. Amelia’s son Ivan co-owns Tetea Communications, a company that was accused of inflating costs for building a State House website by 300 times in a rivalry between young State House media operatives.

Young cadres have discovered information technology, surveillance and social media as sectors in which the president needs help and can be persuaded to spend. Overall, the media—whether online, TV or print—plays an ever-growing role in efforts to secure support and control dissent. Complementing older established and long co-opted media executives such as Andrew Mwenda at The Independent, an array of ambitious emerging journalists are joining the regime ranks, including, for example, Arinaitwe Rugyondo at Red Pepper, a media company. Another prominent example is

127 Edris Kiggundu, ‘NBS TV’s Kin Kariisa: How “cool” barber became a media baron’, The Observer, 21 August 2015; interview with lawyer 2, Kampala, 4 May 2019; and interview with journalist 3, Kampala, 10 May 2019.
128 https://twitter.com/search?q=ubc%20lite&src=typed_query
131 Interview with economist 2, Kampala, 17 May 2019; and interview with intelligence officer, via WhatsApp, 29 July 2019.
134 Kabushenga’s successor is current presidential press secretary Don Wanyama.
Giles Muhame, editor of the popular Chimpreports website, one of the most well-established online media outlets run by this new cadre of journalists who are popularly linked to shadow state interests.¹³⁵

Museveni may have no illusions about the lack of ideological grounding of these ambitious young cadres, but he needs them.¹³⁶ In fact, they reinforce the impetus for a dynastic renewal of the Museveni monarchy for whom a Muhoozi presidency is a steppingstone. Relationships with their peers, however, in the past were often competitive rather than collaborative. Recently, though, strategic cooperation between the SFC crop surrounding Muhoozi and the up and coming younger cadres in the ruling party, along with other actors in the business sector and prominent socialites in the same age group, is strengthening in a bid to rally a more broad-based platform upon which Muhoozi can campaign for the 2026 elections.¹³⁷

Attempts at forming a coalition of younger cadres across various sectors and ethnic groups that may serve as a 2026 campaign team crystallized in an official party for Muhoozi’s forty-fifth birthday in April 2019. Hosted at Sudhir’s Munyonoyo resort, the party brought together tested loyalists and aspiring cadres from the military, government and the NRM, along with the media and the music industry, that are designated key operators in bringing the Muhoozi project about. Flanking Muhoozi at the table was Lilian Aber, chairperson of the National Youth Council and one-time opposition student leader turned close personal Muhoozi affiliate, SFC ally and then chief of staff of the land forces, Major General Leo Kyanda, then ICT minister, Frank Tumwebaze, and Rajiv Ruparelia, whose father owns the resort that hosted the event.¹³⁸

One month later, Muhoozi’s spokesperson, Major Chris Magezi, was appointed to the board of the state-owned Uganda Broadcasting Corporation (UBC), which is being revamped to appeal to youth audiences. Muhoozi’s friend, Cedric Ndilima, son of a former NRM minister, was also appointed as new head of corporate communications. National Youth Council chairperson, Lilian Aber, who helps administer the Youth Livelihood Funds programme, and former State House legal adviser, Hussein Kashillingi, were appointed to the Posta Uganda board, which is the state-owned postal service.¹³⁹ On Twitter, Muhoozi hailed the appointment of these ‘youth’.¹⁴⁰

4. Impact of the shadow state

Shadow state activity to capture and benefit from state resources adversely impacts on the delivery of public goods and democratic consolidation in post-1986 Uganda. The practices and examples discussed in this report illustrate how the shadow state not only penetrates but pervades government and the public service. In fact, to a large extent, the shadow state and the hegemonic NRM state are synonymous. Many shadow state actors occupy public offices, with their shadow role rooted in the often-stark discrepancy between formal roles and mandates, and their effective activities and influence in the political, economic and security spheres. This undermines institutional hierarchies and

¹³⁶ Interview with economist 1, Kampala, 1 May 2019. ‘Museveni: My ministers are selfish, sleep on the job’, Daily Monitor, 7 February 2019.
¹³⁷ Interview with journalist 4, Kampala, 8 May 2019.
¹³⁹ Posta Uganda Limited was formerly known as Uganda Post Limited.
procedures, and weakens the bureaucracy. The import of ties of blood, marriage and ethnicity in the shadow state points to close links between shadow state activity and nepotism. In Uganda, shadow state activity that is dominated by individuals from south-western Uganda, many of whom are related to the president’s family, aggravates social inequality, entrenches elitism and deepens ethno-regional divides.

The shadow state diverts and misuses public funds to sustain political patronage and mobilize electoral support. This deprives the ministries and statutory authorities of budgets, undermines the delivery of public services and hampers the impact of development programmes. For example, free farming inputs distributed in the context of a nationwide agricultural development scheme and start-up funds for entrepreneurial youth groups were key avenues of patronage in the campaigns for the 2016 general elections. Operation Wealth Creation and the Youth Livelihood Funds further entrenched a culture of commercialization of politics.141

The raiding of the public purse can also have a destabilizing effect on the macroeconomy and, consequently, regime stability. After Museveni had used Central Bank funds to underwrite the 2011 campaigns, inflation skyrocketed and walk-to-work protests over transport prices erupted in Kampala and upcountry towns, and were violently repressed.142 Arbitrary and often perennial tax incentives and exemptions benefitting shadow state actors—almost all granted by the executive—have been found by a parliamentary investigation to have little legal or other grounds. Presidential tax favours cost the tax payer dearly. The Ugandan branch of the independent NGO SEATINI (Southern and Eastern African Trade, Information and Negotiations Institute) estimates that tax waivers and exemptions in fiscal year 2017–2018 alone cost the public purse close to USD 400 million.143

With key state institutions implicated in and staffed by loyalists who benefit from shadow state operations, combined with the process of generational renewal that may catapult Museveni’s son Muhoozi to power as his successor, the reach and strength of the shadow state in Uganda is as deep and resilient as it is obvious. In addition to renewal and self-perpetuation, the Ugandan shadow state continues to grow, extending into pivotal economic sectors that can guarantee the ongoing accumulation of wealth and personal gain for the first family and their wide network of friends and helpers. This happens at the expense of the broader development and democratization of the country and the vast majority of Ugandan citizens—an inherent risk that is mitigated by violent suppression and criminality underpinned by impunity.

5. Conclusion and policy considerations

The Ugandan shadow state post-1986 is marked by the unrivalled dominance of the post-liberation leader whose overriding interest is perpetuation of his hold on state and society. Those who collude to wield political, social and economic authority for their own benefit are almost all tied into the complex web of Museveni’s rule and to varying degrees maintain transactional relationships of reciprocity with State House.

Museveni and his closest family members—his son Muhoozi Kainerugaba, his wife Janet Kataha Museveni and his half-brother Salim Saleh—present a virtual royal family that seeks dynastic succession. The Museveni system rests on two interlocking pillars, the extended family and the military aristocracy. The extended family in the shadow state comprises a complex web of blood relatives and in-laws, who are strewn all over the state and the economy—from State House to

141 Ibid.
142 Kalinaki, ‘Mutebile lifts the lid’.
143 SEATINI, ‘Harmful Tax Incentives’, 5.
statutory authorities; from security firms to dairy and agricultural businesses; from the mining and telecommunications sectors. The military aristocracy has undergone generational change, with veteran officers having lost their influence through retirement, defection or death. Nonetheless, quite a few old guard military shadow state actors with entrenched business interests but no more military power remain, although with varying fortunes.

The education minister, Janet Kataha Museveni, and retired General Salim Saleh are established and notorious key shadow state actors with multiple business interests and playing a variety of roles in relation to the shadow state. Along with Janet, Saleh is portrayed as the ultimate shadow state actor. Whereas Janet’s commercial and other interests are well covered up, Saleh’s network of legal and illegal businesses, from defence and brokering Chinese investments to agriculture, are often the talk of town. Muhoozi is increasingly growing his own network of power throughout state institutions, the economy and society in anticipation of a future presidency. Save for some notable exceptions, the new military aristocracy is concentrated in a group of Muhoozi’s age mates from south-western Uganda who have risen through the Special Forces Command. Many of them are part of the web of extended family or come from tried and tested families.

The economic shadow state greatly overlaps with the pillars of the extended family and military aristocracy but features various actors whose fortunes are not directly dependent on links with the family and military aristocracy of the Museveni monarchy. Yet, sizable personal wealth, especially outside the entanglements of the Museveni web, is only tolerated where a lack of political ambition is assured and, if not support to the ruling party, (a display of) political neutrality is expected. In turn, those who have proven their political loyalty and usefulness may be given a free hand in business, enjoying impunity for large-scale corruption and other crimes.

The shadow state presence is pervasive in business but is less concentrated in the monarchy and its two pillars than is the case in politics. Businesspeople with ties to the first family can benefit from undue tax favours, compensation and other incentives, such as the acquisition of public land, that deprive the public purse of funds. If favours are not directed by the president, they collude with bureaucrats who can tweak the system and its procedures for their benefit. Shadow state actors also run criminal businesses. These include narcotics to human trafficking, and gold smuggling, which are often linked to logistics companies, security and labour export firms, and, especially, the state security forces, from the military to the civilian intelligence services and the police.

The shadow state is engrossed in the National Resistance Movement (NRM) state. How the shadow state will be reconfigured once Museveni ceases to be president—either by his removal or death—is uncertain. With Museveni ageing, the shadow state is already undergoing a rejuvenation, although the change among brokers and political fixers is much faster than that which is occurring deeper in the shadows. The aspiring shadow-state-to-be around Muhoozi seeks to expand and consolidate their new influence and wealth but it is unclear how much time they will have left to do so, and what will come next.

Policy recommendations

- Put in place measures to control and limit elite profiteering from development partner funded projects, such as land compensation in context of infrastructure development.

- Development partners should conduct thorough risk analysis when awarding contracts, funding infrastructure projects etc, or supporting bills in parliament.
- Diplomatic engagements must carefully consider economic interests of shadow state actors in Uganda's foreign policy.

- Continued support of civil society, especially investigative journalists, human rights and anti-corruption organisations to strengthen transparency and accountability.

- Engage members of the Ugandan government, parliament, civil society and private sector on transition scenarios.

- Intensify efforts to curb illicit international financial streams.

- Sanctions on individuals over corruption and human rights abuses may have a deterrent effect.
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<td>AGR</td>
<td>African Gold Refinery</td>
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THE SHADOW STATE IN ZAMBIA: HOW THE POLITICAL SYSTEM WAS PRIVATIZED, CORRUPTED AND CAPTURED

Sishuwa Sishuwa
4. The Shadow State in Zambia

1. The Shadow State in Zambia

In Zambia, politicians, state officials and business people pursue personal wealth and political power through informal markets. Since Edgar Lungu ascended to the presidency in January 2015, there has been a reduction in the competence, credibility and effectiveness of the state. Before becoming president, Lungu—the then justice and defence minister under President Michael Sata—had no known wealth and could not even afford the presidential nomination fee. A lack of independent wealth has meant that powerful supporters of President Lungu now wield exaggerated influence over his decision-making.

Some of the people who played prominent roles in getting Lungu elected are regularly seen in the company of the president. Observers claim that State House, the official residence of the head of state in Zambia, has become a site for sharing the spoils of office. The president and individuals close to him are reported to have amassed enormous wealth from their control and influence over the award of tenders or contracts, especially in procurement of oil and construction. Local media reports frequently refer to what they characterize as an informal state, better known in academic literature as a ‘shadow state’, to describe the increasing influence of informal actors over the government in Zambia.

In Zambia, the president, who wields enormous power and authority, is central to the evolution and operation of the shadow state. He is surrounded by a network of go-betweens or intermediaries who act as gate-keepers or lobbyists for government contracts, policy decisions and public appointments. There are also many friends, business associates and relatives whose role is to negotiate deals and introduce business persons to the president or key decision makers. There are also contractors and entrepreneurs whose proximity to the president relates to the role that they played in bringing him to power. Lastly, politicians and prominent personalities wield considerable political and economic influence. They have the clout to mobilize the political and financial resources upon which elections are won or lost. They also control low-level officials in government and regulatory agencies who frustrate the enforcement of laws, procedures and regulations to enable the pillage of state resources.

The Zambian shadow state is comprised of a mixture of such individuals and has evolved through a number of distinct stages. First was the period immediately after independence (1964–1972), which was marked by the twin processes of nationalism and developmentalism. This was followed by the one-party state period (1973–1991), when the United National Independence Party (UNIP) acquired both political and economic prominence, and power was highly centralized and personalized in President Kenneth Kaunda. After Kaunda was finally removed from office in 1991, President Frederick

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3 Africa Confidential, ‘Aides with agendas’; Oliver Chisenga, ‘State House a den of illegal deals’; Lusaka Times, ‘Corruption by senior staff’.
Chiluba (1991–2001) implemented various political and economic practices that provided opportunities for rent-seeking and corruption, with Zambia increasingly defined as a kleptocracy.

Following Chiluba, the tenure of President Levy Mwanawasa (2002–2008) was characterized by an anti-corruption drive, commitment to the rule of law and the promotion of regulatory oversight. President Rupiah Banda’s presidency (2008–2011) continued with the Mwanawasa-era policies but was considered more tolerant to corruption.

The explosion of shadow state power in Zambia occurred during the tenure of President Michael Sata (2011–2014). Sata’s time in office was defined by a high tolerance for impunity and the strengthening of an informal network of actors with immense influence over the president (the cartel). This capture of state power by informal networks was effectively completed during the tenure of the current president, Edgar Chagwa Lungu (2015–present). Since 2016, most regulatory and oversight institutions have become weakened or compromised, and an informal network of actors—ruling party politicians, business people, lawyers, judicial officials, and security and defence leaders—wields enormous influence over key policy decisions. This informal network also has illicit access to state resources by exercising political authority and influence through the manipulation of procedures and processes to facilitate their private access to and control of public resources.

These factors have resulted in the undermining and erosion of institutional capacity, especially the regulatory environment, to ensure that those who breach established laws are not prosecuted or, in the event that they are prosecuted, not convicted. In the words of one interviewee, the system is ‘rigged totally to the extent that conducting legal business is simply impossible without the assistance of informal actors and state officials’.  

2. Evolution of the shadow state

The existence of shadow or parallel networks with influence or control over the formal institutions of the state is not a new phenomenon in Zambia but the extent of its influence during different periods of the post-independence history of the country has varied. Under the leadership of Kenneth Kaunda (1964–91), Frederick Chiluba (1991–2001), Levy Mwanawasa (2001–2008) and Rupiah Banda (2008–2011), some form of a shadow state, or at least parallel networks of influence, may be said to have existed. This did not, however, overwhelm the independence of state institutions or fundamentally corrupt the operation of business, politics and the media. Since 2011, beginning with the rise to power of President Michael Sata and followed by his death in office in 2014, and subsequent replacement by President Edgar Lungu in 2015, the situation has deteriorated. A full-blown shadow state now exists, which has captured control of key organs of the state, including the presidency and the wider operations of State House.

From Kaunda to Banda

During the presidency of Kenneth Kaunda (1964–1991), whose United National Independence Party (UNIP) held a 27-year monopoly on political power, a group of individuals, especially business people, had direct access to the president. He also turned to this group for advice. Such influential groups are often referred to as ‘kitchen cabinets’—small groups of ministers, external advisers and presidential confidants who effectively make or significantly influence major decisions in the country.  

4 Interview with senior official at the Financial Intelligence Centre, Lusaka, 11 May 2019.
5 The idea of a kitchen cabinet is considered normal in many African governments. This is when real decisions are not made formally in cabinet but come as a result of informal consultations with a few members of the cabinet and other non-members of the state apparatus. Interviews with a former vice president and cabinet minister, Lusaka, 5 May 2019.
Four stages in the evolution of the shadow state

The strength of the shadow state in Zambia has varied over time, depending on the degree of capture of state institutions. In previous administrations, state institutions retained relative autonomy and this reduced the extent to which state actions could be conducted with impunity. Following the 2016 elections, however, the capture of state institutions had become so extensive that the shadow state can now be said to be in complete control.

1. Post-independence nationalism and developmentalism (1964-1972)
After independence until the inauguration of the Second Republic, the twin processes of nationalism and developmentalism inspired post-independence nationalist leaders. Apart from fights over the sharing of public positions and the allocation of state resources for development needs, the state was seen to work in the public interest. While informal influence was evident, it was not pervasive nor did it encroach on the proper functioning of investigative and regulatory agencies.

2. Patronage in a one-party state (1973-1991)
During this phase, the ruling United National Independence Party (UNIP) became the only political party, with power centralized and personalized in President Kaunda. He took advice from an informal kitchen cabinet and built an elaborate patronage machine to maintain political power. There is no evidence of a shadow state or that government decisions were intended to reward either Kaunda’s informal network or himself. High-level government officials did not benefit disproportionately from patronage and corruption was not tolerated.

3. The long slide into kleptocracy (1991-2011)
The simultaneous adoption of large-scale political and economic reforms during the presidency of Chiluba (from the Movement for Multi-Party Democracy, MMD) created opportunities for collusion between state and private interests to defraud the state on a massive scale. Although committed to ending government corruption and respecting rule of law, Mwanawasa (Chiluba’s successor) was unable to stop Zambia from sliding into kleptocracy. His successor, Banda, proved even less effective. While the shadow state existed to a small extent during this period, corruption was a more pervasive factor.

4. State capture (2011-the present)
The election of Sata and Lungu marked a turning point in the evolution of the shadow state. Since 2011, Zambia has witnessed the complete capture of state institutions, a total collapse of state regulatory functions and an explosion of criminality with little to no effective control. This process started under Sata but accelerated markedly after his death in 2014. The selection of Lungu, who lacked financial means, was inexperienced and who had previously been suspended from practicing law for financial impropriety, as presidential candidate, meant that he relied upon wealthy benefactors to finance his campaign. These in turn came to control him and built an informal structure to access state resources and influence policies that benefit their ambitions. Under Lungu, the Zambian shadow state has reached its most advanced stage.

Under Kaunda, these included people such as then Lonrho’s chairperson Tiny Rowland and the prominent business people Tom Mtine and Pat Puta, who could gain access to the president whenever they wanted, rarely requiring a prior appointment. Kaunda would consult them before making key policy pronouncements or decisions on the composition of his formal government cabinet.

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6 Lonrho is a London-based conglomerate in multiple business sectors in Africa, working mainly in agribusiness, infrastructure, hospitality and support services.
7 Interview with prominent journalist, Lusaka, 12 May 2019.
also consulted several foreign experts before making decisions, such as members of the Fabian Society, including Colin Morris and Bastiaan de Gaay Fortman.

Nonetheless, power was centralized and personalized in President Kaunda, who built an elaborate patronage machine to distribute party, government and parastatal positions and development projects to loyal supporters and constituencies. Patronage was, however, tempered by the Leadership Code, which distinguished between public and private resources, banned political leaders from engaging in business, restricted them to owning one house and a farm, and discouraged ostentatious lifestyles. Leaders implicated in corruption were summarily dismissed and publicly shamed.

State companies, such as the Industrial Finance Company, Cattle Development Company, Credit Organization of Zambia, Lima Bank, the Small Industries Development Organization and the Development Bank of Zambia, provided finance to establish a property owning class. Membership in the president’s party, the UNIP, and loyalty to Kaunda were important prerequisites. This property-owning class was instrumental in agitating for economic liberalization and played a key role in removing Kaunda from power in 1991. Because of its centralized character, those in business sought access to the state to facilitate economic accumulation. During the Chiluba presidency, this influential group of business people within the Movement for Multi-Party Democracy (MMD) played a key role in arguing for the privatisation of the economy. They subsequently ensured that they were in a position to buy privatised or liquidated (previously state-run) companies.

Although a kitchen cabinet style of government prevailed, there is no evidence that a parallel or shadow state existed or that the decisions made were meant to reward an informal network of actors or the president personally—the well-functioning patronage system Kaunda had built notwithstanding. Kaunda’s personal financial status when he left office supports this: he had a moderate income and neither a house nor assets. Kaunda’s post-retirement situation is described thus:

 Upon retirement in 1991, he had the equivalent of $8,000 in his bank account. He did not own a house, had no business, and no assets, and no investments, locally or abroad. A man of great personal integrity and parsimony, his economic dealings and policies generally did not exhibit self-interest.

This was also the case for many of his ministers. As the economy deteriorated in the late 1980s, Kaunda still insisted that leaders should live by example, which may explain why most of his government ministers had no major assets and were relatively poor when they were ousted from power.

Several efforts by his successor, President Frederick Chiluba, to have him investigated by Scotland Yard for alleged theft of billions of dollars yielded nothing. Chiluba, leader of the opposition party, MMD, who defeated Kaunda in the October 1991 election, was himself engaged in a systematic

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8 The Fabian Society is a British socialist organization the purpose of which is to advance the principles of democratic socialism via gradualist and reformist efforts in democracies, rather than by revolutionary overthrow.


12 Interviews with a former secretary to the cabinet and a former managing director of a parastatal company, Lusaka, 10 and 8 May 2019.
plunder of state resources. During his tenure, state funds were stolen or abused through the establishment of an elaborate and systematic network of actors, including both state and non-state functionaries. Large-scale economic and political reform played a role.

Many observers argue that shadow states tend to manifest in transition societies, especially those undergoing concurrent political and economic reforms. This was the case in several African countries, including Zambia, during the 1990s, when new rulers adopted International Monetary Fund–World Bank inspired structural adjustment programmes (SAPs) alongside political reforms. The paradox of Chiluba’s rule is that he vociferously opposed structural adjustment reforms during the 1980s but later became the principal advocate in the next decade, declaring at the height of his presidency: ‘I worship SAPs in the morning, in the afternoon and in the evening.’ Despite his trade union background—he was head of the trade unions in Zambia—and having won power because of support from the working class, Chiluba was to preside over one of the most rapid and far-reaching economic structural adjustment programmes on the African continent.

Under Chiluba, personal rule intensified, which is also considered a feature of shadow states. The small group of individuals connected to his inner circle, however, and with whom he engaged in acts of theft of public resources, had little influence over policy or decision-making. Most state institutions operated with relative independence and key government policies and decisions were often challenged both in parliament and in the courts. Moreover, the independent media and civil society exposed much of the wrongdoing and Chiluba allowed critical public discourse on state performance. Even if some state institutions were implicated in the looting of public resources, state capture was not complete enough to render the system dysfunctional.

Nonetheless, efforts were made to conceal the way in which state resources were being siphoned off and to protect the identity of those involved. Although Chiluba occasionally dismissed people implicated in corruption or drug dealing, more powerful actors tended to escape. For example, some individuals who were alleged to have had irregular relationships with Chiluba had their cases discontinued, while others suffered mysterious deaths. In general, the environment was not conducive to the operation of a full-fledged shadow state. Although it did exist, this was to a much lesser degree. More significant was the collusion between some state institutions and individuals and firms outside state structures to defraud the state of colossal sums of money.

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18 Drug dealers with connections to State House, such as Issa Galedou, were deported and not prosecuted, while those who tried to expose the manner in which an informal network that shepherded huge sums of state funds to the MMD election campaign in 2001 were found dead under mysterious circumstances. One such mysterious death was that of Paul Tembo, a former MMD deputy national secretary, who died just hours before he could testify in a case against then MMD national secretary Michael Sata’s involvement in the transfer of state funds to the MMD national convention in early 2001. Others have suggested that Chiluba and key members of his inner circle, who feared the ramifications of an exposé from an ambitious young politician, may have sanctioned the elimination of Paul Tembo. Joe Kaunda, ‘Gen. Tembo warns Chiluba over assassination: You will pay for Tembo’s death’, *The Post*, 9 July 2001; Brighton Phiri and Sheikh Chifuwe, ‘Tembo was going to implicate Chiluba, reveals Dipak’, *The Post*, 9 July 2001; Amos Malupenga, ‘Tembo’s last testimony’, *The Post*, 10 July 2001.
Chiluba left office in 2001 after a decade in power and was succeeded by President Levy Mwanawasa (2002–2008), also from the MMD. The Mwanawasa presidency tried to reverse the slide into a Zambian kleptocracy, with only limited success. A task force on corruption was established under the leadership of former State House adviser to Kaunda, Mark Chona, and prosecuting lawyer Mutembo Nchito. Those implicated in what came to be known as the ‘matrix of plunder’ included senior officials at the Zambian Ministry of Finance, a cabinet minister, three permanent secretaries and the managing director of a parastatal bank. The task force recovered enormous assets. Chiluba was prosecuted for embezzlement and abuse of authority in a high-profile trial that lasted for more than five years and was only acquitted as a result of intervention by President Rupiah Banda, who succeeded Mwanawasa in 2008.

Mwanawasa’s act of prosecuting Chiluba, who had hand-picked him as his successor, was welcomed by donors and Zambians alike. Because of his public commitment to fighting corruption, members of Mwanawasa’s political entourage feared becoming involved in corrupt activities or developing ostentatious lifestyles. The new president also believed in respecting the rule of law, which he demonstrated by ensuring that state institutions, such as the Office of the Director of Public Prosecutions, the Drug Enforcement Commission and the police and judiciary, operated independently.

Although Mwanawasa was credited with having launched a spirited campaign against corruption, he was tainted by his own association with an oil contract that was awarded to one of his close friends, apparently without a proper tender process. Despite his efforts to fight corruption, Mwanawasa’s critics accused him of nepotism in his style of public appointments. Then leader (and founder) of the opposition Patriotic Front (PF) party, Michael Sata, famously referred to the Mwanawasa government as ‘a family tree’. A shadow state did exist during Mwanawasa’s tenure, but it was not pervasive—perhaps limited to a kitchen-cabinet level.

Mwanawasa died in office at a Parisian military hospital in August 2008, after suffering a stroke that left him in a coma for more than a month. During his illness, it was said that a small clique, including then Minister of Defence George Mpombo, Minister of Information Mike Mulongoti, Secretary to Cabinet Leslie Mbula, Intelligence Chief Regis Phiri and business person Rajan Mahtani, made key government decisions, particularly related to procurement of contracts.

The political succession following Mwanawasa’s death revealed the schisms within the ruling MMD coalition. Vice President Rupiah Banda emerged as Mwanawasa’s successor, subsequently defeating Sata by a narrow margin in the 2008 election.

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20 A former cabinet minister in the Mwanawasa government says his colleagues feared Mwanawasa, as ‘he did not tolerate any nonsense’. He demanded utmost probity from his ministers and did not hesitate to dismiss anyone named in a scandal or deal. Interview with a former cabinet minister in the Mwanawasa government, Lusaka, 2 May 2019.
23 Interviews with former senior government official and former cabinet minister, Lusaka, 5 May 2019.
Mwanawasa’s approach, he was generally perceived as more tolerant of corruption than his predecessor.  

Sata and the shadow state

The character of the shadow state that existed under Chiluba, Mwanawasa and Banda was of a relatively low order. Investigative agencies were fairly independent and the courts were not timid in ruling against members of the executive branch of government. Following the election of the opposition Patriotic Front (PF) leader Michael Sata in 2011, however, this changed. Sata brought a completely different attitude to governance that resulted in the emergence of a parallel government, which became known by some as ‘the cartel’. The received wisdom is that this small group of people, most of whom were outside the structures of government, dictated what President Sata should do. He also both sought and listened to their advice. This informal network is believed to have had enormous influence over the president, including a hand in key appointments—of ministers, permanent secretaries, diplomatic posts and the heads of parastatal bodies.

Once in government, Sata, a populist leader, centralized and personalized power. He followed the example of his predecessors by appointing loyalists, relatives and friends to influential positions. In Sata’s first cabinet, two of the ministers—Alexander Chikwanda and Robert Sichinga—were his relatives. Bringing close family members into government can serve as an important building block in establishing shadow states. Sata also appears to have had a weak spot for The Post newspaper and its editor, Fred M’membe, to whom he owed a debt of gratitude for having popularized his election campaign and ensuring his electoral victory. This allowed M’membe and those close to him, such as former Task Force on Corruption prosecution lawyer Mutembo Nchito, whom Sata later appointed Director of Public Prosecutions in December 2011, to advise the president on a number of critical issues of governance.

Spurred by his populist aspirations, Sata needed easy sources of cash to fuel a patronage project that would mobilize popular support for his government. On the advice of close friends, he devised ways of securing extra rents from construction companies and other state procurement projects. Chinese contractors became the main partners in an elaborate scheme to use state resources to fund party operations. Many other individuals, such as Indian and Greek nationals, also competed to make donations to the PF through Sata: ‘These people even used to bring the money to the president in cartons filled in cash.’ Nonetheless, under Sata there was no coherent group that met and made decisions regarding policy or contracts. The actors involved were rarely linked or even knew one another.

25 In August 2009, former Zambian president Frederick Chiluba, a close ally of President Rupiah Banda, was controversially acquitted of all corruption charges against him by a magistrate’s court. Dismissing widespread public calls for the government to appeal against the lower court’s decision, Banda urged Zambians to accept the judgement and criticized the culture of prosecuting former presidents, whom he said deserve respect. Lusaka Times, ‘President Banda hails Zambians for accepting Chiluba verdict’, Lusaka Times, 18 August 2009. A year later, in November 2010, Banda’s administration removed the abuse of office section, a key legislation in the fight against corruption, from Zambia’s Anti-Corruption Commission Act. Banda claimed that the legislation was ‘undemocratic and retrogressive’. Lusaka Times, ‘Abuse of office law is retrogressive and undemocratic – Rupiah Banda’, Lusaka Times, 2 November 2010.

26 Dimpho Motsamai and McDonald Chipenzi, “This week in Zambia, the increasingly fragmented ruling Patriotic Front convened a landmark meeting to elect a new presidential candidate”. Institute for Security Studies, 14 November 2014, https://issafrica.org/iss-today/zambia-wades-into-succession-morass.


28 Secretary to the Treasury Fredson Yamba is the brother-in-law of Christine Kaseba-Sata, who is Sata’s widow.

29 Interview with senior official from Financial Intelligence Centre, Lusaka, 11 May 2019.

30 Interview with former State House official under Sata, Lusaka, 23 May 2019.

31 Interview with former State House official under Sata, Lusaka, 23 May 2019.
Sata also adopted a style of leadership that encouraged impunity. The cartel is believed to have been influential in both the removal of the then Director of Public Prosecutions, Chalwe Mchenga, and his replacement with Mutembo Nchito. Two Supreme Court judges and one from the High Court were suspended from office reportedly at the behest of the cartel, for alleged abuse of office. An ill-qualified individual, Lombe Chibesakunda, was installed as acting Chief Justice, contrary to the rules of the Judicial Service Commission. Fearful that Parliament would not ratify her appointment, Chibesakunda remained in an acting position from late 2011 until after Sata died in October 2014. The cartel is also thought to have influenced Sata’s decision to increase mining taxes.

In response to the increasing power of the cartel over Sata, a rival informal network led by the then finance minister, Alexander Chikwanda, organized within the PF. Those who believed that a shadow state was in operation—Chikwanda, Willie Nsanda (a member of the PF central committee) and other influential members of the rival informal network—fought the efforts of the cartel first by frustrating the bid of the PF secretary general, Wynter Kabimba, to succeed the ailing Sata. The rival informal network then also mobilized judges to block the action to have the three suspended judges removed and paralysed the work of the tribunal established to investigate the judges through court injunctions.

In an effort to placate the Chikwanda group and its members, Sata was persuaded to transfer the Roads Development Agency (RDA) from the Ministry of Works and Supply to State House, under the leadership of Nsanda. Officially justified on the need to increase efficiency and curb corruption, the idea of transferring the RDA to State House was to ensure that all road contractors paid rent, a commission or a bribe on each contract. The commissions were shared between the principal (president), the party, some State House officials, officials in the RDA, such as Nsanda, and some ministers.

The cartel, however, was able to push other decisions that included the renationalization of Zamtel and Zambia Railways, which ensured further access to lucrative contracts. The return of Finance Bank Plc. to Rajan Mahtani was also a result of the influence of the informal network, which prevailed on President Sata to cancel a legitimate decision by the previous Banda government to seize the bank for poor performance and unsound banking practices. While the shadow state can be said to have been in formation during Sata’s presidency, it had not yet reached the stage of thoroughly undermining state institutions or manipulating regulatory procedures to such an extent that they counted for almost nothing.

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32 Interview with former State House official under Sata, Lusaka, 23 May 2019.
33 Lulumbi Nakazwe, ‘We had to open the Court at 02:00hrs to secure Lungu’s candidature – Kelvin Bwalya Fube’, The Mast, 28 December 2016, pp. 1 and 7. Also available at https://zambianeye.com/we-had-to-open-the-court-at-0200hrs-to-secure-lungus-candidature-kbf/(accessed on 6 November 2019).
34 Interview with former State House official under Sata, Lusaka, 23 May 2019.
35 In addition to being a member of the PF central committee, the late Willie Nsanda was Sata’s presidential campaign manager. Following the 2011 elections, Sata nominated him to parliament but it was subsequently discovered that he had exceeded the number of presidentially nominated MPs permitted by the constitution by two. Sata consequently dropped Nsanda from the list of nominated MPs and, to appease him, appointed him chair of the RDA, without a board of directors. Nsanda served as a lone board member until his death in early 2015. At the time of his death, huge amounts of cash in different currencies were found at his house, prompting accusations that he might have been a recipient of bribes and commissions for facilitating road contracts. Interview with a senior official from the Financial Intelligence Centre, Lusaka, 11 May 2019.
36 A former State House official believes that Sata’s intention to transfer RDA to State House was meant to minimize cases of corruption in road contracts. As the official was to notice later, RDA became a cash cow for the PF as contractors lined up to seek road contracts through State House, often offering bribes to the state officials who facilitated the contracts. Interview with a former adviser to late President Michael Sata, Lusaka, 23 May 2019.
The death of Sata heralded the onset of the final stage in the evolution of the shadow state in Zambia: the complete capture of state institutions, a total collapse of state regulatory functions; and thriving criminality with little or no effective control. The formal state, working alongside informal structures, used state positions to access state resources and manipulate rules, regulations and laws to ensure that formal state structures did not exercise their oversight functions and public accountability.

The most important feature of the shadow state in the present circumstances is that almost all state institutions are captured, which makes it difficult for those involved in corrupt practices to be prosecuted. The absence of effective checks and balances makes a country particularly susceptible to capture by vested private interests. As one informant notes in frustration, ‘the state has been privatized. It is now the property of certain individuals, who manage and sustain a parallel state network.’

There is nothing to compare with between Sata’s government and now, when it comes to shadow states. ... These guys are financing the destruction of democracy in Zambia. To be sure ... for State House, even if you brought an angel from heaven today, it would be corrupt within four days.

The Lungu succession

Following Sata’s death in October 2014, the group around the now deceased president moved to choose their own preferred successor as president—Edgar Lungu. Having failed to install Lungu as president immediately after Sata’s death in office, they sought to frustrate the efforts of then acting President Guy Scott to suspend Lungu as PF secretary general. They also worked against plans to have the presidential nomination made at the PF national convention. After Sata’s death, two rival conferences were held to elect his successor. One was organized by a faction close to the then finance minister, Alexander Chikwanda (who led the rival informal network within the PF). This conference installed Lungu as president. The other conference, led by Scott, selected Miles Sampa as the PF presidential candidate.

Both conferences claimed that they were following internal PF rules but the Chikwanda faction outmanoeuvred their opponent by using friendly judges from the high court to frustrate litigation that would have nullified the election of Lungu as party president. The pro-Lungu (Chikwanda) faction obtained a consent order from the court that effectively annulled the decisions of Scott’s conference, leaving Lungu as the PF presidential candidate. The two rival conferences suggest both weakness and lack of cohesion in the shadow state. This also shows that the faction led by Scott, which emphasized adherence to formal rules, under-estimated the ability of the rival Lungu faction to mobilize support outside state structures.

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37 Interview with a former advisor to late President Michael Sata, Lusaka, 23 May 2019.
38 Interview with business person and political activist with close connection to State House, Lusaka, 5 May 2019.
40 Interview with former official at State House, Lusaka, 11 May 2019.
41 Following an appeal lodged by Sampa, the Supreme Court found the high court decision flawed but stopped short of nullifying the verdict. Instead, the court decided to send the matter back to the high court for further hearing. The high court judge, however, adjourned the matter to a date after the election, effectively installing Lungu as the PF official candidate. Following his election, Lungu rewarded the same high court judge with a promotion to the newly created constitutional court, where the judge was made deputy president.
Following his election as president, Lungu and his associates moved to replace all those they viewed as standing in the way of their political project, which sought to gain control over state institutions, especially prosecutorial and regulatory agencies. The Director of Public Prosecutions, Mutembo Nchito, was suspended on allegations of abuse of authority of office and the Attorney General, Musa Mwenya, was immediately sacked. A process of appointing favourable high court judges loyal to the new president ensued. At the same time, the media house, Post Newspapers Limited, founded by Sata’s confidante Fred M’membe, was liquidated ahead of the 2016 elections, ostensibly due to failure to settle outstanding taxes.

The Zambian constitution was then amended in January 2016 and a new judicial structure, the constitutional court, was created. Its main role was to adjudicate on all matters pertaining to the interpretation of the constitution and any legal challenge brought against the election of a president. President Lungu, in anticipation of a close result and an election petition, selected its members a few months before the election, even though none of them met the requisite qualifications prescribed in the constitution.  

While the degree of corruption during Lungu’s first term (January 2015–August 2016) was not particularly alarming, the situation worsened following his disputed re-election in 2016. A 2016 report by the independent government anti-corruption watchdog agency, the Financial Intelligence Centre, and seen by the researcher, suggests that part of the election funding of the PF may have come from illicitly acquired funds. Though the open report does not specifically name the PF, it alludes to huge withdrawals traced to candidates of a ‘named political party’ and ‘transfers to business and political campaigns.’

The behaviour of the full-blown shadow state begins to be noticeable in the run-up to the 2016 elections and the aftermath. State security agencies, especially the police, appeared either unwilling or unable to stop the electoral violence that was meted out to the opposition by ruling party supporters.

3. The structure of the shadow state

Broadly speaking, the current Zambian shadow state finds expression through the following six key groups: 1) the president, Edgar Lungu; 2) a network of go-betweens, gatekeepers and lobbyists, who either are state officials or act with presidential authority; 3) friends, business associates or confidants with direct access to the president; 4) a group of contractors and established business people who seek government contracts; 5) loyalists who are placed in regulatory and investigative agencies to subvert rules and procedures for the benefit of other individuals, and themselves, who are part of this shadow state; and 6) party cadres—those loyal to the president’s political project—who may use threats of violence to intimidate whistle blowers on corruption and abuse of power.

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44 In the detailed Trends Report disseminated to law enforcements agencies and the presidency the ‘named political party’ is given as the PF. While transfers to ‘political campaigns’ included opposition parties, such as the UPND. Interview with senior official from the Financial Intelligence Centre, Lusaka, 11 May 2019. See also the FIC 2016 Trends Report: Money Laundering, Terrorist Financing and Other Financial Crimes, Lusaka: Financial Intelligence Centre, 2016, 14.
The president

In the Zambian political system, the president has been the most important figure in the development of a shadow state. There is no doubt that the centralization of power under the Zambian constitution and the increased weakness of key democratic institutions over time, means that the country has been ‘particularly vulnerable to the idiosyncratic decisions of the president.’\(^{45}\) This is reflected in the personalization of power in the current Lungu administration. The president uses the authority granted by this office, in collusion with a range of state, non-state and external actors, to undermine existing laws and regulations to ensure access to state resources for a narrow range of beneficiaries, including himself and close associates. This phenomenon has been referred to as ‘meta-corruption’.\(^{46}\)

Given the enormous powers wielded by the president, access to the president provides an instant opportunity to land lucrative public tenders and large-scale contracts. The closer people are to the president, the better off they are likely to be. As one interviewee puts it, ‘everyone wants to see the president but the majority of their conversations are not related to government business; rather they concern ways of making money and how State House can facilitate access to government contracts’.\(^{47}\)

Go-betweens, gatekeepers and lobbyists

The president is not alone in either creating or directing the shadow state. President Lungu sits at the top of an informal network that has systematically undermined the proper functioning of legitimate state institutions. State actors, especially in the executive branch, play a primary role as go-betweens, gatekeepers and lobbyists in the shadow state. While many business deals involving the president are conducted through fronts and associates, some are handled by his staff at State House, who act as go-betweens to fix appointments for people who wish to see him. Sometimes an appointment can cost between USD 50,000 and USD 100,000.\(^{48}\) Due to their centrality in negotiating deals and issuing instructions to public institutions, including ministers, permanent secretaries, parastatal chiefs, and defence and security chiefs, State House advisers come to wield enormous influence, which they use to manipulate rules and regulations or obstruct their application for the sole purpose of facilitating illicit access to state resources, in particular public tenders and contracts.

Key ministries in the executive branch that are part of the shadow state include agriculture, defence, finance, commerce, mines, infrastructure and housing. Some senior civil servants, such as the permanent secretaries of these ministries, also play the role of gatekeepers or lobbyists on behalf of external entrepreneurs. This informal network of state functionaries maintains a hold on power and access to state resources to both purchase political support and accumulate personal wealth. State institutions are therefore rigged to operate in a way that facilitates illicit access to state resources.

Friends, associates and confidantes

Other important actors in the shadow state are friends or associates of President Lungu. These are often people he knew in his previous life as a lawyer, parliamentarian and business person. Some are close relations. They have easy access to the president and State House. They lobby for policy change and particular decisions or changes in regulations and the regulatory environment. They propose names for appointments to public service positions, including those to head regulatory and law

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\(^{47}\) Interview with political activist, Lusaka, 28 May 2019.

\(^{48}\) Interview with former cabinet minister, Lusaka, 5 May 2019.
enforcement agencies. They are members of the shadow state, as their lobbying for policy change or changes in the regulatory environment is meant to promote their private interests, not the public interest.

Lawyers

Some of the most influential members of the shadow state are lawyers close to the president. They have played prominent roles in nominating judges to the high court, the court of appeal and the constitutional court. They have also been visible in defending cases in which the president has been implicated, or where his tenure in office has been placed in jeopardy. For example, these lawyers were involved in representing President Lungu in the presidential election petition in August 2016. They also represented small opposition parties aligned to the PF that sought an interpretation of the constitution on Lungu’s eligibility to seek a third term in the 2021 election. More recently, the lawyers represented PF supporters who sought to block the hearing of an impeachment motion against Lungu.

In addition to resolving legal problems in which the president or his close associates are implicated, lawyers who are part of the shadow state also participate in money laundering by using their bank accounts as conduits for the proceeds of crime. The 2018 Financial Intelligence Centre Trends Report explains how the bank accounts of lawyers are used to launder state funds and how payments are made to contractors, and, thereafter, how funds get transferred to law firms for onward transmission to serving state officials or their associates in the business sector, referred to as ‘beneficial owners’ or ‘politically exposed’ persons.

The business community

Business people, local and foreign, form an important part of the shadow state in Zambia. Most of these actors do not want to deal in transparent or legal commercial relationships with the state. Their businesses tend to be fronts (shell companies), which are often established by state officials for purposes of illegally accessing state resources. Established business people also play a key role in the shadow state. Wishing to exploit their relationship with state officials for private gain, these business people may suggest what deals the state should make, obtain confidential bidding information or inflate the value of tenders as a way of ensuring that the difference goes to paying bribes to corrupt state officials.

The emergence of single-sourced construction contracts, which do not go to public tender, has seen increased participation by Chinese companies, often apparently with little regard for transparency or government guidelines. There is an outcry that most large procurement and construction contracts now go to Chinese companies. There is a growing concern about Chinese firms have a monopoly on government construction contracts. Some of the awards to Chinese contractors are said to have come as a direct instruction from State House to single source the work, which is couched in the language of strengthening the all-weather friendship with the People’s Republic of China.

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49 Interview with business person and political insider, Lusaka, 5 May 2019. See also Financial Intelligence Centre, 2018 Trends Report, Lusaka: Financial Intelligence Centre, 2019, 12, 15.
50 Financial Intelligence Centre, 2018 Trends Report, 12, 15.
54 Interviews with several informants reveal that most contracts awarded to Chinese companies are conduits for siphoning state funds. They argue that after Chinese contractors are paid, they often draw huge sums of money in cash to pay state
Loyalists

Political loyalists tend to be rewarded with public appointments in regulatory agencies, such as the Drug Enforcement Commission (DEC), the Anti-Corruption Commission (ACC), the Zambia Police, Auditor-General’s Office and the National Prosecution Agency (NPA). The fact that the President is allowed by law to appoint almost all heads of government ministries and agencies has created a situation where he can exclusively appoint people who are members of the ruling party and loyal to him personally. This practice has tended to be abused in recent years, especially after the ascension to power of the PF government in 2011. For example, the 2011–2016 period witnessed the replacement of professional and independent-minded officials in key law enforcement and regulatory agencies, such as the Zambia Police, the ACC, the DEC and the NPA, with ruling party loyalists.

It has also been suggested that presidential loyalists benefited from the decisions to renationalize the telecommunications company, Zamtel, and Zambia Railways, along with the creation of the Industrial Development Company (IDC). This is a means to provide jobs to ruling party supporters and privilege them with state funds—even as the renationalization of former state assets is promoted in terms of protecting the national interest. While such interventions have a populist appearance, they give rise to the risk that they will be used to siphon off public resources under the stewardship of presidential loyalists.

Party cadres

Party cadres are supporters of political parties, often youth, who are mobilized to carry out actions intended to promote or popularize the party, and sometimes engage in acts of intimidation against rival party supporters. While all major political parties have their own cadres, it is those of the ruling party that have the most political significance. Ruling party cadres are used to intimidate persons critical of the president and members of the ruling party. In return for their support, ruling party cadres are allowed a free reign, whereby they routinely break the law with impunity, extract illegal rents from small informal traders and engage in all form and manner of extortion. The influence of party cadres can be illustrated by the fact that they have been known to order the Inspector General of Police, head of the Police Command, to carry out their instructions. Even when they brutalize members of the public their actions are rarely censured.

4. The shadow state at work

The shadow state under Lungu uses various means to legitimate itself, including masking its presence, seeking external support and exploiting the current political climate in Zambia. Four case studies concretely illustrate how the Zambian shadow state operates. These focus on the executive, public procurement and contracting, security and defence, and the judiciary.

officials for facilitating the contracts. The banks tend to collude with the Chinese contractors—it is against Bank of Zambia banking regulations to draw huge sums of money in cash. The 2018 FIC Trends Report reveals a number of suspicious transactions involving huge bank withdrawals by construction companies. Financial Intelligence Centre, 2018 Trends Report, 16, 24.; Interview with senior official from the Financial Intelligence Centre, Lusaka, 19 June 2019.

55 Interview with former State House official, Lusaka, 12 May 2019.
Legitimizing the shadow state

There are several strategies adopted by the shadow state in Zambia to legitimize its influence and control. First, the shadow state presents a veneer of not having any influence on the operation of the formal state structures. Often, the informal network controlling the shadow state positions itself as pursuing a project of inclusive national development. In Zambia, the mantra of a pro-poor development discourse is trumpeted by every member of the shadow state. Recently, members of Lungu’s government have championed the objective of ‘inclusive development’ and ‘strengthening institutions to direct development and deal with factors that hamper effective delivery of public services’ in the Seventh National Development Plan (7NDP). As they make such statements, however, members of the shadow state earn millions of dollars as a result of their manipulation of regulations, which undermine the proper functioning of regulatory bodies, and their collusion with external non-state actors. Meanwhile, the majority of the population live in poverty and destitution. Criticisms or accusations of corruption are often rebuffed as unpatriotic and described as the work of a disgruntled opposition by loyalists.

The second legitimation strategy adopted by the Zambian shadow state is the mobilization of external support to divert attention away from national issues. After the 2016 election, the opposition UPND declared that they would not recognize Lungu as having been legitimately elected due to alleged serious irregularities in the electoral process, coupled with the failure of the constitutional court to hear the petition by losing candidates, Hakainde Hichilema and his running mate Geoffrey Bwalya Mwamba. Despite this, President Lungu and his government received support from foreign governments and some international organizations. This reflects a general tendency among shadow states, which are often desperate for international recognition. States of this type tend to ‘rely upon the willingness of outsiders to recognize the façade of formal sovereignty’. The recognition of state sovereignty minimizes international criticism of electoral fraud, authoritarianism and bad governance.

Third, the shadow state in Zambia legitimizes itself through a strategy geared to exploiting the domestic political situation in a two-pronged tactic. On the one hand, in an effort to maintain popularity, the shadow state purchases political support from various local constituencies. It promotes several empowerment schemes, such as the presidential market empowerment scheme, the women’s empowerment scheme and youth empowerment. These projects are funded from outside the official government budget but nonetheless use public funds that members of the shadow state would have obtained illicitly through dubious procurement and construction deals or from well-wishers. A case in point is the Presidential Empowerment Initiative scheme that provides small loans to marketeers (small-scale women traders at open markets). When asked where the funds for the scheme come from, the national patron, a civil servant, explained that money is sourced by President Lungu from well-wishers and a contribution from his own salary. Others have implied that the money for the scheme were derived corruptly or from proceeds of crime.

58 Interview with former finance minister and Member of Parliament, 1 May 2019.
60 While the 2016 election was described as flawed and not having met international standards by a number of international and local observer groups, some international organizations, such as the African Union Observer Group, the Southern African Election Observer Group and the Commonwealth Election Observer Group, and several foreign governments endorsed the results and declared the elections as having been free and fair, ‘despite some irregularities’. See European Union Election Observer Mission, Final Report on 2016 Zambia General Election, Brussels: European Union, 2016.
63 Interview with former official at State House, Lusaka, 11 May 2019.
On the other hand, under Lungu, the shadow state has built an exclusive political structure the membership of which is based on ethnicity and party affiliation. Two ethnic groups—Bemba and Nyanja-speaking people—dominate the ruling PF coalition. They also dominate the leadership of key state institutions in the country. Nonetheless, the PF continues to project itself as inclusive—frequently using the motto ‘One Zambia, One Nation’ to promote national unity. At the same time, Lungu’s government regularly accuses political opponents of fanning ethnic divisions. In particular, they have sought to portray the opposition UPND as being a party for Tonga speakers, which is Zambia’s third largest ethnic group. The exploitation of these political divisions is reinforced by the use of false narratives. Following the 2015 and 2016 elections, for example, the country became divided along ethnic and regional lines.

While the PF and President Lungu may have won the 2016 election, this was achieved with only half the national vote. The main opposition, the UPND, obtained 47 per cent of the national vote, with smaller parties another 2 per cent. Despite this close result, the PF and its supporters have propagated the story of having won a landslide victory. However, the 2016 election results painted a picture of polarization and division of the country between North-East and North-Western Zambia.

Case study 1: The executive

In Zambia, the executive—especially the position of president—sits at the apex of both the formal state and the shadow state. In some circumstances, individuals who have direct contact with the president assume his powers and act in his name. The president wields enormous power and enjoys immunity from prosecution for acts carried out while in office. The president is therefore susceptible to external influence that may favour narrow private interests.

Two key inter-related factors explain Lungu’s vulnerability to capture by special interests. First, he lacked the independent financial means to compete in the 2015 election that followed Sata’s death and therefore his election was bankrolled by a collection of powerful individuals. Second, Lungu is faced with uncertainty with respect to his tenure in office, given a weak electoral mandate and the highly competitive political environment. Zambian presidents are also limited by the constitution to two five-year terms in office.

Lack of independent financial means. Those who supported Lungu’s presidential bid include: the former president, Rupiah Banda; prominent business people, including Vaulden Findlay, Gulam Patel, Mulenga Mikalile, Robinson Zulu and Josef Huwiler; and politicians such as Alexander Chikwanda and late Willie Nsanda. In particular, Banda played a significant role in getting Lungu elected. He is reputed to have provided Lungu with his own campaign facilities, including three helicopters and 60 motor vehicles. He also introduced Lungu to his Nigerian business associates, who allegedly provided him with an undisclosed amount of money for the campaign. Once Lungu was elected, these powerful individuals have exerted considerable influence.

Vaulden Findlay hardly knew Lungu prior to the 2015 elections but he enjoyed a close relationship with Banda, who had initially considered running for office in 2015. When Banda’s candidature was thwarted by schisms within his own MMD party, he threw his weight behind Lungu’s campaign. Findlay followed suit. In return for his support, Banda is said to have made several demands on Lungu: that allies be awarded government positions; that his criminal cases be discontinued; and that his

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65 Interviews with several informants in Lusaka, Kabwe and Ndola, 16-18 May 2019.
66 Interview with Lusaka businessman and close associate of Rupiah Banda, Lusaka, 5 May 2019.
67 Rupiah Banda’s intention to contest the presidential election on behalf of the MMD was declared invalid by the Supreme Court, giving way to party leader Nevers Mumba to represent the party in the 2015 presidential election. Interview with close associate of Rupiah Banda, Lusaka, 5 May 2019.
immunity from prosecution be restored. Following the election, at least six of Banda’s nominees were appointed to key cabinet positions in the government. These were the late Victoria Kalima, Lucky Mulusa, Vincent Mwale, Dora Siliya, Margaret Mwanakatwe and Felix Mutati. A few days after taking power, Lungu suspended Director of Public Prosecutions Mutembo Nchito. Soon after, Banda was acquitted of all his criminal charges and his immunity from prosecution was restored.

Findlay has emerged as a very close associate of President Lungu. Although not a state official, Findlay runs errands for the president and is used as an emissary on party matters and in negotiating business deals. In general, Findlay acts as Lungu’s fixer and is believed to handle many of his private financial affairs. Although little is known for sure, Findlay is believed to suggest projects that can bring in money and plot also plan how they can be undertaken. While there are many projects that Findlay has organized on behalf of Lungu, it is the recent acquisition of a Gulf Stream G560 from Russia that stands out. The Gulf Stream, valued at no more than USD 60 million, was purchased for the excessive price of USD 138 million. In order to conceal the source of funds, the money came through the Zambia Security Intelligence Service account, which is not subject to audit.

One respondent sums up the extent of outside influence on the president thus:

Government officials have seen that power does not lie in the constitution or the offices they hold. They have seen that power lies with the people who are outside government structures and these are business people or people with money.

Uncertain tenure in office. The second factor that explains the emergence of a shadow state in Lungu’s Zambia is the uncertainty of staying in office, given a weak electoral mandate and the highly competitive political environment. The fact that the president cannot hold office over the long-term also encourages Zambian leaders to find ways of preparing for their retirement. In Lungu’s case, being elected president in the first place was an unexpected accident of history for which he had not prepared adequately. He was reluctant to accept the nomination and is said to have required serious persuasion from powerful individuals within the PF establishment. A former cabinet minister under

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68 Interview with businessman and close associate of Rupiah Banda, Lusaka, 5 May 2019 and former policy analyst at State House, Lusaka, 13 May 2019.
69 Interview with close associate of Rupiah Banda, Lusaka, 5 May 2019. The six nominees include the late Victoria Kalima, Minister of Gender, Lucky Mulusa, Special Advisor to the President (Project Implementation) and later Minister of National Planning, Vincent Mwale, Minister of Local Government (later Housing and Infrastructure), Dora Siliya, Minister of Energy and Water Development (later Information and Broadcasting Services), Margaret Mwanakatwe, Minister of Commerce, Industry and Trade (later Finance) and Felix Mutati, Minister of Finance.
70 It is believed the President utilizes Findlay to meet with foreign or local business people. He also meets with ruling party insiders to persuade them of the rightness of certain decisions or policy actions. When former president Rupiah Banda declined to represent President Lungu at Kenya anniversary celebrations in 2018, it was Findlay who was sent to discover the reason for this. Findlay is also believed to be the man who ensures that contracts are not only awarded to particular companies, but that the president’s private and personal interests are safeguarded. This was the case with the recently purchased presidential jet (Gulfstream G560). Interviews with two former officials at State House, 11 May 2019 and 16 May 2019.
71 Interviews with former cabinet minister, Lusaka, 2 May 2019; former senior government official with close links to the Zambian intelligence service, Lusaka, 4 May 2019.
73 It is worth noting that after the period considered by this report, i.e. after President Lungu had been defeated by Hakainde Hichilema in the 2021 general elections, the Drug Enforcement Commission froze Findlay’s accounts: Mukosha Funga, ‘DEC freezes Findlay’s accounts, as Malanji appears for questioning again’, NewsDiggers, 19 August 2021, https://diggers.news/local/2021/08/19/dec-freezes-findlays-accounts-as-malanji-appears-for-questioning-again/.
74 Interview with former State House advisor, Lusaka, 11 May 2019.
75 Interview with former State House official, Lusaka, 23 May 2019.
Michael Sata noted that ‘Lungu was forced on the Zambian people by a handful of PF members who knew that he was weak and without vision.’

Corruption is often said to be the primary means through which state functionaries prepare for life after government. Instead of paying commissions or bribes directly, which would result in a paper trail, payments are often made in kind, such as in property or motor vehicles. If cash payments are made, these are then laundered to purchase maize, houses, motor vehicles or land. Between 2016 and 2019, for example, there have been reports that Lungu received a plot of land in Mbabane, Swaziland, as a gift from a Swaziland-based construction company, Inyatsi. While the narrative propagated is that Lungu received the plot of land as a gift from King Mswati III, those close to the transaction claim that this is untrue. One interviewee explains: the land was given to Lungu as an ‘appreciation’ for awarding a road construction contract to Inyatsi. Instead of paying him in cash, which could be traced, Lungu was reportedly given land, along with an offer to build a house on it. While the transaction attracted attention, a counter-narrative emerged, with traditional rulers supporting claims that the land was a gift from King Mswati. This was combined with veiled threats against civil society actors. Given the violent manner in which previous demonstrations against graft and abuse of power were suppressed, civil society protests were rather muted.

Individuals working at State House also often acquire enormous wealth in a very short space of time—to protect themselves from the uncertain tenure of the president. Amos Chanda, for example, who for four years was the Special Assistant to the President for Press and Public Relations, was untouchable until his surprise resignation in June 2019. While in this position, he was named in several scandals and the investigative agencies were either unwilling or unable to prosecute him. In 2018, he was named in the confidential version of the FIC Trends Report as having received and transferred USD 3.3 million through suspicious transactions.

76 Chisenga, ‘Don’t blame Lungu’.
77 Interview with official from the Financial Intelligence Centre, Lusaka, 5 May 2019.
79 Interview with former chief of intelligence, Lusaka, 4 May 2019; former cabinet minister with close family ties with the Swazi royal family, Lusaka, 5 May 2019.
83 While the official reason he gave for resigning was to ensure that he complied with proposed constitutional provisions that civil servants resign their positions before an election if they intended to contest in a general election, some have suggested he was forced to resign due to an alleged bribe received from a Turkish businessman. Zambian Observer, ‘ACC to question Amos Chanda over Turkey bribe’, Zambian Observer, 7 June 2019.
85 The FIC sends an unedited version with names of its report to law enforcement agencies and the President and an edited version without names to the public. Based on interviews with senior official of the Financial Intelligence Centre, Lusaka, 19 June 2019.
Case study 2: Procurement and contracting

Procurement and public contracting are perhaps the most abused conduits for accessing state resources. Despite the fact that there are formal procedures for public procurement, a small group of state and non-state actors have systematically rendered the public tender process irrelevant. The most common method is the single sourcing of contractors, using front or shell companies, where serving ministers or state officials bid for contracts using third parties, thus inflating the bid price. The lack of enforcement of tender procedures, combined with the collusion between the state officials who are involved and members of responsible regulatory and law enforcement agencies, makes it possible for huge sums of money to be embezzled through procurement deals.

There are three areas that are most lucrative to the shadow state under procurement: fuel, road construction and fertilizer support programmes. In these sectors, it is extremely difficult to win tenders without connections to State House or the upper echelons of power. The introduction of speed cameras, for example, did not originate from the Road Transport and Safety Agency (RTSA) but from a businessperson with close links to President Lungu. His contract was terminated when, following public outcry, it was found that tender procedures were violated.86

A contract to supply fire engines in 2017 was one of the public procurement deals that exposed the extent of involvement of members of the shadow state in defrauding the state. A firm owned by Bokani Soko, a close associate of Lungu and a former State House adviser, was awarded the tender. Its bid price of USD 42 million meant that at this price each fire engine cost USD 1 million.87 The average price of a new fire truck on the international market in 2017 ranged from USD 50,000–250,000.88

A few years previously, the government announced that it had bought six fire engines at a cost of GBP 9 million from a UK-based company. Five years later, it appeared that none had been delivered but the full payment was nonetheless reported to have been made.88 As one informant disclosed:

Each time the company was paid, someone from the government would go and ask for their cut. They wanted to use this money to fund political activities. But government paid through the nose for them because of the top ups for kickbacks, which were going straight into people’s pockets. 89

The former Minister of Infrastructure and Housing Development, Ronald Chitotela, was named in a scam in which commissions were extorted from construction deals, with those in charge of the deals alleged to have pushed for requesting facilitation fees in return for securing payments to contractors.90 When he was arrested by the Anti-Corruption Commission for being in possession of

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88 Lusaka Times, ‘Fire trucks value for money’.

89 Interview with former official in the Auditor General’s office, Lusaka, 26 May 2019.

90 As minister of housing and infrastructure, Chitotela would instruct his Permanent Secretary and accounts personnel to pay certain contractors owed and once the funds were ready would demand to be paid by the affected company for making the payment possible. Interview with senior official at the Financial Intelligence Centre, Lusaka, 19 June 2019. Africa Confidential, ‘Cash in the Cabinet’, Volume 60, No 4, 22 February 2019, https://www.africa-confidential.com/article-preview/id/12572/Cash_in_the_cabinet
proceeds of crime, Lungu refused to drop him from the cabinet and declared Chitotela innocent.\footnote{Lusaka Times, ‘Chitotela will only be fired if he is found Guilty-President Lungu’, \textit{Lusaka Times}, 7 February 2019. Accessed 4 October 2019, \url{https://www.lusakatimes.com/2019/02/07/chitotela-will-only-be-fired-if-he-is-found-guilty-president-lungu/}.} Insiders claim that Chitotela’s deals may have implications for the president, which in turn implies that his prosecution was doomed to fail.\footnote{Interview with former State House adviser, Lusaka, 13 May 2019.} Others have suggested that convicting the former minister for corruption or abuse of office may affect Lungu’s electoral prospects, as Chitotela hails from a key constituency—Luapula Province.\footnote{Sishuwa Sishuwa, ‘The real reasons why Lungu won’t fire Chitotela’, \textit{Lusaka Times}, 12 February 2019. Accessed 4 October 2019, \url{https://www.lusakatimes.com/2019/02/12/the-real-reasons-why-lungu-wont-fire-chitotela/}.}

According to some interviewees and newspaper articles, Chitotela is seen to be a key link between members of the shadow state, Chinese construction companies\footnote{Joseph Mwenda, ‘Chitotela probe implicates Chinese, lawyers, fellow MP, ministers and others’, \textit{NewsDiggers}, 7 February 2019, \url{https://diggers.news/local/2019/02/07/investigation-reveals-millions-linked-to-chitotela/}.} and those in the formal state structures.\footnote{Interview with senior official at the Financial Intelligence Centre, Lusaka, 11 May 2019.} Chinese construction companies wield considerable influence on government procurement decisions and have devised several ways of paying government officials. According to sources, apart from cash, which is often delivered in carton boxes, other ways of paying government officials is through building houses, acquiring building materials or constructing roads leading to where officials reside.\footnote{Interview with official from Financial Intelligence Centre, Lusaka, 11 May 2019.}

\textit{Case study 3: Security and defence}

In countries where the shadow state is powerful, the security and defence agencies often collude with politicians to protect criminals and facilitate corruption. In Zambia, the police rarely initiate investigations into allegations of criminal activities committed by members of the ruling elite. The leadership of the defence forces has been drawn into the shadow state and routinely engages in abuse of state funds.\footnote{Interview with former chief of intelligence, Lusaka, 4 May 2019 and former State House official, Lusaka, 13 May 2019.} In the last few years, four retired military generals have been prosecuted for corruption. Some of the military generals prosecuted and convicted for corruption include former army commander, Geojago Musengule, former Zambia Air Force commanders, Christopher Singogo and Andrew Sakala, and former Zambia National Service commandant, Wilford Funjika.\footnote{Lusaka Times, ‘Funjika jailed’, \textit{Lusaka Times}, 11 March 2008. Accessed 4 October 2019, \url{https://www.lusakatimes.com/2008/03/11/funjika-jailed/}; Lusaka Times, ‘Geojago Musengule sent to prison,’ \textit{Lusaka Times}, 2 March 2009. Accessed 4 October 2019, \url{www.usakatimes.com/2009/03/02/geojago-musengule-sent-to-prison/}; Zambia Daily Mail, ‘Kabanda Chulu, Ex-ZAF boss convicted’, \textit{Zambia Daily Mail}, 7 October 2014. Accessed 4 October 2019, \url{http://www.daily-mail.co.zm/ex-zaf-boss-convicted/}.} In an editorial the \textit{Mast} observed thus:

\begin{quote}
Zambia’s military is corrupt. Look at the crooked generals who have been prosecuted and convicted for corruption over the last 18 years. ... Most of our generals are corrupt they have become dealers, suppliers to the same military units they command. ... Corruption in our military contributes directly to the insecurity of our country. It has a corrosive effect on combat readiness and effectiveness, undermining the ability to meet national security threats. ... These problems are multiplied in the military and security services, because of the huge transactions involved, the secrecy requirements and the sensitivities associated with national security—all of which reinforce the lack of transparency and accountability. ... Procurements are often conducted through personal, not professional channels.\footnote{The \textit{Mast}, ‘Zambia’s corrupt military’, \textit{The Mast}, 18 February 2019. \url{https://www.themastonline.com/2019/02/18/zambias-corrupt-military/}.}
\end{quote}
In 2018, for example, Lt. General Eric Chimese, a Zambia Air Force commander, was dismissed from his position on allegations of abusing his office and concealing property believed to be the proceeds of crime. Chimese is being prosecuted on five counts of abuse of authority and money laundering in connection with properties at Ibex Hill in Lusaka and at Lilayi. He is charged together with his wife, Sharon and an associate, Chita Lodge owner, James Chungu. While the prosecution is centred on his abuse of authority of office, the real motivation to prosecute him appears to be connected to his handling of the procurement of military equipment involving some senior government officials.

The Zambia Police Service and the Drug Enforcement Commission (DEC)—responsible for investigating money laundering activities—are two of the most pivotal state institutions in the operations of the shadow state. Each president appoints an Inspector General of Police, many of whom have not displayed a high degree of professionalism in handling cases involving government figures. The capture of the police is so complete that they are powerless to control ruling PF party cadres who mete out acts of violence on political opponents.

The DEC, once a crucial agency in investigating money laundering and other financial crimes perpetrated by state officials, has also been captured by narrow private interests. Despite repeated revelations of money laundering in the annual Financial Intelligence Centre Trends Reports, in the last five years the DEC has not brought any senior government official to court. The shadow state appears to have co-opted DEC leadership to such an extent that it has frustrated the efforts of other investigative agencies. Several observers argue that the DEC is ineffectual in discharging its functions, as those implicated happen to be senior members of government. If anything, the police and the DEC investigate and prosecute petty criminals and perceived political opponents, letting large-scale criminal actors go free. Of the 822 cases disseminated by the FIC to law enforcement agencies only 4 were under investigation. The DEC has concentrated on drug-related offences involving peasant farmers and low-income individuals, often leaving out high-level or politically connected individuals, such as government ministers or senior government officials. The politicians investigated are often those in opposition to government or those who may have lost favour with the ruling elite.

## 5. Impact of the shadow state

Since Edgar Lungu assumed the presidency of Zambia, the state has been captured by an informal network of individuals and interests. This has systematically eroded the effectiveness of regulatory and oversight institutions. The emergence of a parallel informal power structure, or shadow state, has had a serious impact on the political system as a whole and democratic consolidation in particular. It

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101 Interview with former intelligence chief, Lusaka, 4 May 2019; interview with former State House advisor, Lusaka, 13 May 2019.
102 Interview with former Secretary to the Cabinet, Lusaka, 13 May 2019.
104 Interview with former policy analyst at State House, Lusaka, 11 May 2019.
106 Interview with former State House official, Lusaka, 13 May 2019.
has also had a negative impact on economic development, as huge sums of money have been diverted to private individuals, state officials and their associates. There are at least five significant consequences of the growth of a shadow state in Zambia on the political and economic system.

Corruption of politics

Through its opaque funding of political parties, the shadow state has bought control of the ruling party and government. Through donations, business elites have cultivated close relationships with the holders of power at State House and in key ministries, thus giving them access to demand preferential treatment in relation to public tenders. Those who make regular party donations assume that they have a legitimate claim to receive something in return. An independent roll call of PF donors is likely to reveal that they have inordinate influence—not only in internal party decisions but also on matters of public policy and state contracts.

It can be argued that most political parties in Zambia, including the PF, lack internal party democracy and party members are often detached from funding the operations of their parties. The influence of big donors further limits political participation. Noteworthy in political party funding is the channelling of financial contributions to the party leader. The party leader, who is also the head of state (the president), pockets the donations or uses them as patronage resources. The president, in turn, ensures that the donor is rewarded with state contracts, often inflated so that there is something extra to share.108

Efforts to introduce legislation to regulate party funding have been frustrated by ruling party loyalists, who fear that such legislation will reveal their sources of funds, thereby making party members demand more accountability.109 There are also fears among the PF leadership that a party financing law, especially state funding for political parties, may enhance the organization of opposition parties. Members of the governing PF coalition fear that in an environment in which the ruling party commands a narrow electoral mandate, better oversight of political party funding may undermine the incumbency advantage that they have.

Manipulation of elections

The shadow state interferes with elections by manipulating electoral laws and rigging the results.110 In a context in which the incumbent lacks popular support, as evident from the 2015 and 2016 election results, there is a potent fear of losing power. Thus, the shadow state does everything in its power to ensure the incumbent wins. In the 2016 elections, for example, incidents of electoral violence, a disinformation campaign and vote buying were all strategies employed by the shadow state to facilitate Lungu’s election. The ruling party’s strategy also involved co-opting opposition MPs, violence and divide and rule to ensure political domination beyond 2016.111

108 Interview with former State House adviser, Lusaka, 4 May 2019.
109 Article 60 of the Constitution of Zambia (Amendment) Act no.2 of 2016 provides, among other things, that political parties disclose their source funding and sets a maximum amount of money to be used for campaign purposes during elections. Republic of Zambia, Constitution of Zambia (Amendment) Act No.2 of 2016, Lusaka: Government Printer.
During the 2016 election, the shadow state also played an important role in manipulating the vote. One interviewee who worked for the electoral body reveals that the manner in which the electoral process was manipulated ‘seems to have been organized and coordinated’. For example, in Lusaka, there was evidence of considerable electoral irregularities in all seven constituencies, which—had it been presented by the petitioners—would have likely invalidated Lungu’s victory.

The manner in which the constitutional court handled the election petition brought by the losing candidates also demonstrates the impact of the shadow state on electoral politics. In addition to intimidating judges, some members of the court were close to the shadow state and were able to deliver a majority decision, although proper procedures were not followed. For example, on the Friday before, the court had unanimously adjourned the matter to the following Monday for continued hearing. Three judges subsequently arrived on Monday with a joint decision not to continue the matter, even though lawyers for the defendant (President Lungu) had not demanded that change. Why the judges changed their minds and who they met over the weekend is not known. Most importantly, leading legal commentators have concluded that the remedy that the majority judges gave is not provided for by the Constitution, which risks rendering the judgement unsound.

Moreover, the Judicial Complaints Commission later found that the constitutional court did not exhaust the 14 days provided for in the constitution when it dismissed the petition on the tenth day. The commission concluded that Constitutional Court judges failed to properly interpret articles 101 (5) and 103 (2) of the Constitution in relation to the timeframe for hearing the presidential petition and issuing contradictory decisions on the interpretation, but declined to recommend their removal from office on grounds of incompetence and gross misconduct in line with articles 143 and 144, disregarding as a consequence the gross injustice suffered by the petitioners and those who had voted for them.

**Restriction of political competition**

The shadow state undermines the democratic process by restricting political competition. This is achieved by manipulating laws pertaining to public order, such as the Public Order Act. Despite the fact that the PF publicly commits to respecting individual rights to freedom of assembly, association and to protest, the enjoyment of these rights has been restricted when it involves opposition groups. Protests against the predatory behaviour of state officials, especially regarding corruption, have often been met with brutal police repression. In 2017, peaceful demonstrations against reported corruption by public officials organized by a civic group led to the arrests of those involved. Importantly, members of the ruling PF urged the police to arrest the protesters. Opposition leaders have also faced arrest and obstruction from the police. In early 2017, for example, the president of the UPND since 2006, Hakainde Hichilema, was arrested and detained on treason charges that were...
widely seen as being trumped up and politically motivated as a means of stifling criticism over Lungu’s controversial re-election. Other opposition leaders have also been targeted.

Public contract subversion

The shadow state has a negative impact on governance because it subverts established tender procedures and operates under a veil of secrecy in the awarding of public contracts. This lack of transparency goes against established government policy on public procurement. The existence of brokers, gatekeepers and lobbyists within government (State House and key ministries) has rendered the public tender process opaque and not subject to public scrutiny. Commentators observe that most cases of corruption involve single sourcing and the active collusion of State House. In cases where information of corruption and abuse of authority of office have been reported in the media, the shadow state or its representatives have issued denials and alternative factual narratives.

In rare cases, there has been selective prosecution of those implicated in corrupt deals. The selective prosecution is premised on pressure from external donors for public accountability as a condition for further aid or it has been a way of punishing a member of the governing elite who has not shown sufficient loyalty to the president. In other cases, selective prosecution has been used as a public relations exercise, to demonstrate that the regulatory bodies do work. Although immunity from prosecution for actions taken in office prevents the president from being investigated, there is a perception that others who do not enjoy this immunity may be shielded from prosecution as long as they are close to the President. The prosecution of former heads of state after they leave office illustrates this point. Two of Zambia’s former presidents—Frederick Chiluba and Rupiah

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121 In April 2017, UPND president Hakainde Hichilema was arrested and charged with treason for an offence of not having given way to a presidential motorcade in Mongu on his way to attend a traditional ceremony. He was detained for four months at Mukobeko Maximum prison and was only released after the intervention of Catholic Archbishop Telesphore Mpundu, other clergy from the Christian Council of Zambia and the Zambia Evangelical Fellowship and the Commonwealth Secretary General Patricia Scotland. Prior to his arrest, ruling party politicians had urged the police to arrest Hichilema for disrespecting the president by refusing to recognize his election. See Mwebantu, ‘Mumbi Phiri Attacks Police Over Mongu Motorcade Incident.’ Mwebantu, 11 April 2019. Available at: https://mwebantu.com/mumbi-phiri/attacks-police-over-mongu-motorcade-incident/. See also Business Insider, ‘Zambian opposition leader Hichilema arrested, charged with treason’, Business Insider, 12 April 2017. Accessed 4 October 2019, https://www.businessinsider.com/r-zambian-opposition-leader-hichilema-arrested-charged-with-treason-police-2017-4?r=US&IR=T.


124 The prosecution of former Information minister, Chishimba Kambwili for corruption is a case in point. Kambwili was being investigated for corruption during his time as a government minister, but was never arrested. After his dismissal and association with the opposition the investigations against him were reopened and he was arrested and charged on several counts. Interview with several informants, including former secretary to the cabinet and former State House official, Lusaka, 11 and 13 May 2019. See also Chomba Musika, ‘Kambwili faces 39 offences’, Zambia Daily Mail, 23 March 2018.

125 Interview with former State House advisor, Lusaka, 13 May 2019.

126 The prosecution of former Minister of Housing and Infrastructure, Ronald Chitotela, (now Minister of Works and Supply), was intended to demonstrate that even serving government ministers can be prosecuted. But the reluctance by President Lungu to fire or suspend him pending clearance by the courts suggests that it was merely a propaganda ploy. Interview with senior official at the Financial Intelligence Centre, Lusaka, 19 June 2019.
Banda—have subsequently faced prosecution. In both cases, they were saved jail time by the intervention of their benefactors.\(^{127}\)

There are documented instances of selective prosecution of those who fall out of favour with the president and his ruling PF party. There is some evidence, for example, that the prosecution of former information minister and at this point leader of the opposition National Democratic Congress (NDC), Chishimba Kambwili, was inspired more by a desire to punish him for being a critic of the ruling party than out of a determination to fight corruption more broadly.\(^{128}\) The charges most recently brought against Kambwili appear to be related to lesser corruption cases than those earlier investigated by the Anti-Corruption Commission, which suggests that the central motivation may have been more to hamper his political ambitions as opposed to deal with the most high profile corruption cases that would have the greatest implications or the culture of impunity within the political elite.\(^{129}\) In this regard, it is worth noting that Kambwili was first named in corruption cases when he was still a member of both the Sata and Lungu cabinet. Interviewees suggested that he therefore not only knows a lot about Lungu’s corruption but some of what he knows may also implicate members of Lungu’s inner circle.\(^{130}\)

**Economic damage**

The shadow state has serious economic impacts that have consequences on economic development in general. These economic impacts also have specific effects on improving the quality of public services, as well as decreasing poverty and inequality. In the introduction to the Financial Intelligence Centre Trends Report 2018, Director General Mary Chirwa states that:

> Given the socio-economic developmental challenges that Zambia faces, it is crucial that national resources are safe-guarded and applied in accordance with the Government’s plans and priorities. For example, Money Laundering reduces revenue for the government as laundered funds are untaxed. Reduced revenues also limit the Government’s ability to provide public goods and services such as education, health and other social amenities. Such illicit funds also have the potential to destabilize Zambia’s financial payment systems and encourage corrupt practices.\(^{131}\)

The case studies above show the enormous amount of state funds that are stolen by a few individuals by virtue of their positions in government or due to their connections to those in power. The 2018 FIC Trends Report reveals, for example, that ZMW 6.1 billion (USD 470 million) was diverted through tax evasion, corruption, theft and fraud by politically connected individuals during 2018 alone; of this, ZMW 4.9 billion (USD 375 million) was lost to corruption.\(^{132}\) It was suggested by a well-placed

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\(^{129}\) Interview with senior official from the Financial Intelligence Centre, Lusaka, 19 June 2019.

\(^{130}\) Interview with senior official from the Financial Intelligence Centre, Lusaka, 11 May 2019.


interviewee that this money was used to fund luxury lifestyles for a few individuals in a context where essential public services are under-funded, salaries for civil servants are routinely delayed and some sections of the public service go unpaid for months. The quality of public services has deteriorated while the government claims there is no money.

While the shadow state uses its access to the state to divert national resources for private gain, the government is battling with a USD 10.3 billion foreign debt and a declining economy, exemplified most notably by growing youth unemployment and poverty. The first casualty in this plunder of state resources are public services, such as health and education, which are in a deplorable state. For example, many health facilities go without basic medical supplies and schools without teaching materials and basic furniture. Despite the declared objectives on the part of government to take health care as close as possible to the people, reducing poverty and promoting inclusive growth, thousands of Zambians still die of preventable diseases and poverty remains one of the most intractable challenges the country faces. Approximately six in every ten Zambians live below the poverty line and in 2018, the country was the fifth hungriest in the world, with stunting impacting 40 per cent of Zambian children. What this demonstrates is that the shadow state has no long-term development programme of economic transformation other than maximizing opportunities to access illicit deals by undermining regulatory institutions. The project of the shadow state tends to be short term: Making money and building an individual wealth portfolio while the current leader is still in State House.

6. Conclusion and policy considerations

The shadow state in Zambia can be described as an informal network of ruling PF party politicians and civil servants, business people, lawyers, judicial officials, and security and defence leaders who informally exercise significant political authority and influence through the manipulation of procedures and processes to facilitate private access and control of public resources. Since 2015, the systematic capture of key state institutions through a process of undermining and eroding their institutional capacities has occurred. The regulatory environment has been manipulated, making enforcement of procedures almost impossible. In nearly all cases, those breaching established laws receive protection from the shadow state and therefore are not prosecuted. In the few instances where they are taken to court, they are not convicted because their cases tend to be allocated to members of the shadow state operating in the judiciary. The system is ‘rigged to the extent that conducting legal business is nearly impossible without the assistance of informal actors and state officials’.

133 The government’s 2018 national budget imposed economic austerity measures due to dwindling financial resources resulting from a credit squeeze, poor performance of the mining sector and debt service obligations. This seriously affected social sectors, such as education, health and social welfare. Interview with former minister of finance, Lusaka, 9 May 2019.

134 Zambia’s foreign debt rose from USD 1.9 billion to USD 12 billion, according to IMF and World Bank figures, or less than 8.4 per cent of GDP in 2011 to USD 12 billion or 43 per cent of GDP. International Monetary Fund, Zambia: 2019 Article IV Consultations, IMF Country Report No.19/263, Washington, D.C.: International Monetary Fund, 2 August 2019. See also Arve Ofstand and Elling N. Tjønneland, Zambia’s Looming debt crisis—is china to blame, Chr. Michelsen Institute: Bergen, June 2019.

135 Youth unemployment grew from 12.4 per cent of the labour force in 2010 to 17.4 per cent in 2017, while the percentage of the people in extreme poverty declined slightly from 42.3 per cent in 2010 to 40.8 per cent in 2017, the absolute number of people living in poverty increased from 5.8 million to 6.7 million over the same period. Data available at: https://data.worldbank.org/.

136 Interview with an official from the Financial Intelligence Centre, Lusaka, 6 May 2019.
With the active involvement of State House or the president, non-state actors in collusion with government officials have been engaged in numerous corrupt deals, especially in the area of public contracting. Road construction has been exploited by members of the shadow state, often in collusion with Chinese contractors. Tender procedures are routinely violated and single sourcing is the most preferred method of awarding contracts. While many actors, including business people and lawyers, are involved in the shadow state, some are more prominent than others. For example, nearly all those interviewed for this report observe the prominence of business person Vaulden Findlay and some government ministers. But these actors are not a cohesive body and sometimes do not even have any direct relationship.

The emergence of the shadow state in Zambia is partly a consequence of the selection of Lungu as presidential candidate in 2014. Those who funded his campaign came to control him and built an informal structure to access state resources and influence policies that affect their ambitions. The appointment of favoured individuals to run relevant regulatory institutions partly explains their ineffectiveness and inaction in the face of blatant disregard of regulations or laws. Institutions such as the police and the defence forces risk being seriously compromised, with their leadership routinely involved in corruption scandals. The prosecution of former defence chiefs illustrates the extent to which even these institutions are captured by the shadow state.

The shadow state also ensures that decisions with a bearing on the president’s tenure in office or access to state resources are influenced in ways that are beneficial to the president and members of the informal network. These decisions include interpretations of constitutional provisions. Lawyers and select judges have been instrumental in ensuring that no legal challenge to President Lungu’s tenure succeeds. The judiciary is itself captured to the extent that since the 2016 election, there has been no single judgement that has been made against the state in cases involving the executive. In particular, the constitutional court judgement on President Lungu’s eligibility to contest a third term came following threats from Lungu of ‘chaos’ if they showed judicial independence. Furthermore, all outstanding cases that were pending before the constitutional court, which had a bearing on the president or his ministers, were later decided against the petitioners.

There are at least five key implications of the Zambian experience with the shadow state. First, the formal state still claims de facto control over public affairs and tries to publicly dismiss claims it is engaged in any large-scale plunder of national resources. Given the highly competitive political environment in which the opposition UPND garnered almost half of the votes in the 2016 election, no state official can take the risk of claiming knowledge of a shadow state. The selective prosecution of some corrupt officials is used as evidence of a willingness to address corruption. The fight against corruption features prominently in the speeches of the president and members of his government. This public commitment is not, however, followed with action.

Second, not everyone in government is a member of the shadow state. The shadow state comprises a small group or informal network of state officials and external actors, such as business people, lawyers, judges and chiefs. Since not every member of government is a member of the informal network, exposure of the secret dealings of the shadow state creates immense fear for those involved. Given the experience the country has of prosecuting former leaders, all efforts have been made to conceal any exposure of the corrupt deals or to find scapegoats to divert public attention.

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137 Interview with former adviser at State House, Lusaka, 4 May 2019.
139 Two high court decisions that nullified the election of two of Lungu’s ministers, Nkandu Luo and Margaret Mwanawasa, were overturned by the constitutional court in a strange turn of events. See Mukosha Funga, ‘Lungu says there will be chaos if judges disqualify him’, *News Diggers*, 2 November 2017.
Third, it is important to recognize that the state capture that has occurred under the shadow state is of a different magnitude than the problem of corruption, even corruption on a large scale. Ordinary anti-corruption measures cannot manage what has developed in recent years. Donor support to fight corruption and advocacy for greater transparency and accountability will yield few results if there is no recognition that the involvement of the president, who is immune from prosecution, complicates anti-corruption efforts. There is no doubt that proximity to the president shields those involved in corrupt deals from prosecution. Thus the naming and shaming of individuals closely associated with the president in corruption-related deals and imposing sanctions may be some of the measures donors could take to fight corruption.

Fourth, the extensive powers of the president to make appointments to all key state institutions and to replace them with his own loyalists help erode the effectiveness of oversight and regulatory bodies. While this matter has been the subject of several constitutional reform efforts, it remains unresolved. It is a matter that has important implications for the functioning of state institutions. Presidential appointees bear allegiance and loyalty to the appointing authority. Given that qualifications are often based on loyalty to the president and affiliation to the ruling PF party, taking a critical position comes with the risk of losing one’s job. Those who have dared to do so have paid a heavy price, as they have found themselves ‘retired in national interest’.  

Lastly, the persistence of high-level corrupt deals suggests a narrowing of democratic space in the country. Unlike in South Africa, where broad sections of civil society, opposition parties and the media formed a coalition that campaigned against state capture culminating in the removal of Jacob Zuma from power, civil society in Zambia is moribund at best. There are very few voices challenging government excesses, with many citizens maintaining a culture of silence or cheering on the political leadership in hope of personal gain. Sustained campaigns against graft are absent and the few that exist have received little support. Donors are reluctant to engage citizens in actions that are overtly anti-government or aimed at regime change. Thus donor support to civil society has been ineffective, as it has not been directed to areas where they can make the most impact—such as campaign for regime change.

The shadow state is pervasive. It systematically undermines state institutions and manipulates laws, regulations and procedures in order to facilitate illegal access to state resources for the benefit of a small group of beneficiaries. Dismantling the shadow state will be difficult but not impossible. This is because the operation and existence of a shadow state is closely tied to the electoral calendar and the mandate of the president. Four considerations on how the shadow state can be dismantled and how state institutions can reclaim their functions are presented below.

Decentralization

In order to neutralize the power and influence of the president, decentralization of power to the local level would reposition patronage politics from the centre. The current decentralization efforts are a mere smoke screen and do not go far enough. While the government formulated the National Decentralization Policy in 2002 and the Decentralization Implementation Plan in 2009, there has been little progress in devolving power and functions to the districts. Power remains concentrated in Lusaka and that is also where financial resources are concentrated. Sata’s idea of decentralization was the creation of a tenth province (Muchinga) and several districts, one that has been sustained by Lungu.

140 Interview with senior official from the Financial Intelligence Centre, Lusaka, 19 June 2019.

141 An example of such efforts is Alliance for Community Action, a civic organization that has been very active, not only in raising awareness about corruption but also in mobilizing public demonstrations against the government and other institutions named in corruption and abuse of authority cases.
This has, however, not altered the enormous power and influence that the president wields and the centralization and personalization of power that has come to epitomize State House. There is need for more advocacy around the decentralization of power to dismantle the power and influence of the shadow state.

**Appointment of qualified civil servants**

The shadow state is served by an ineffectual civil service, which lacks professionalism. Other than the fact that state institutions are captured, there is a dearth of professionalism in the current public service. The practice of appointing non-civil servants to head ministries, based only on their relationship to the appointing authority or party affiliation, has undermined the effectiveness of the civil service. The absence of professionalism has allowed the shadow state to thrive as senior civil servants, such as permanent secretaries, lack security of tenure and are drawn from outside the civil service. The practice of appointing non-civil servants to top civil service positions should be discontinued. Instead, career civil servants should head ministries and enjoy security of tenure. In that way, they will not be concerned about whether their contracts will be renewed or whether they should assist those who subvert laws and procedures to access state resources for private interests. Further, the practice of the president making appointments for all senior civil service positions promotes patronage and is potentially susceptible to external actors. In order to reduce the power and influence of the shadow state, senior civil service appointments should be made by the Public Service Commission, which was previously the case before 1991.

**Democratic space for civil society**

There is a need for civic activism to contain and dismantle the shadow state. If civil society is provided with democratic space to mobilize and launch campaigns against the power and influence of the shadow state, it would eventually triumph. The decision by some western donors to pull back from broad governance concerns has undermined democracy and the vibrancy of non-state actors. It should be noted that civil society activism may not just happen; it will require committed democracy and human rights defenders to champion a cause and a network of international actors to support their efforts. Many current civil society leaders are either already compromised or highly susceptible to capture, which partly explains why the shadow state rides roughshod over people’s rights.

**Support political party reform and credible elections**

Since the shadow state is anchored on the power and influence of the presidency, dismantling it would require support for regime change. This may look radical but in a democracy, campaigns for the peaceful removal of an incumbent through the ballot box are a legitimate political project. It is not surprising that members of the shadow state are investing resources, time and energy in campaigning for the incumbent to continue in office post-2021. Donor support to democracy should not only be restricted to civil society organizations but should be extended to strengthening political parties, especially parties in opposition. The support could also include political party reform to deal with the undemocratic tendencies within political parties that facilitate perpetual leadership and where internal competition is not tolerated. There is need for more advocacy for the formulation of a law to

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142 For example, former secretary to the cabinet, Roland Msiska, was a medical doctor, who had never held a senior civil service post. His successor, Simon Miti, is also a medical doctor, who served as permanent secretary at the ministry of health at the time when donor funds meant for the purchase of drugs disappeared. Interview with former policy analyst at State House, Lusaka, 11 May 2019.

regulate political parties, especially in relation to internal democracy and enhancing their capacity to launch policy alternatives and mount effective electoral campaigns. Transparent and accountable governance would play an important role in ensuring that a shadow state does not emerge again in Zambia or, where it does exist, it is exposed to ensure the effective functioning of regulatory agencies.
Glossary of acronyms, words and phrases

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<tr>
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<tr>
<td>DEC</td>
<td>Drug Enforcement Commission</td>
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<td>Movement for Multi-Party Democracy</td>
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<td>National Democratic Congress</td>
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<td>Road Transportation and Safety Agency</td>
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<td>SAP</td>
<td>Structural adjustment programme</td>
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<td>UNIP</td>
<td>United National Independence Party</td>
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<td>UPND</td>
<td>United Party for National Development</td>
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THE SHADOW STATE IN ZIMBABWE: A STATE WITHIN A STATE

Phillan Zamchiya
5. The Shadow State in Zimbabwe

1. **Introduction: The Shadow State in Zimbabwe**

In Zimbabwe, a clandestine and parallel centre of power is held in the hands of military elites, largely the Zimbabwe Defence Forces (ZDF).¹ They control this parallel centre of power—a shadow state—for their own economic and political gain.

Most ZDF commanders participated in the liberation struggle against colonial rule. They regard themselves as the guardians of sovereign national interests, obliged to act outside the legal and formal scope of decision-making powers. They exercise their autonomous decision-making role to control vast mineral assets, farmland and the agricultural sector, the fuel sector, local authorities, the media, tertiary institutions, state enterprises and the prison services.² The reach of their power is extensive. Military elites are also central to the operations of the national election management board, the formulation and execution of ruling Zimbabwe African National Union Patriotic Front (ZANU PF) electoral strategies and battles for state power.³ These parallel operations to formal state institutions are carried out in alliance with auxiliary forces, war veterans, ZANU PF youth brigades, local and international business moguls, and other civilian security agencies. Sometimes the military elites even form consensual pacts with civilian democratizing elites, opposition political parties and the broader population to advance their strategic interests. Hence, the cliché—these days the army is everywhere—is common among Zimbabweans.

To gain a façade of legitimacy, the military elites appear to be subordinate to the civilian leadership of ZANU PF but only if there is a high level of concord regarding their own interest. In times of discord, such as occurred in November 2017, they overtly engineered the removal of then President Robert Gabriel Mugabe, the founding leader of Zimbabwe, through a military coup d’état. Thereafter, they facilitated the installation of President Emmerson Dambudzo Mnangagwa on 24 November 2017. Military elites wield the balance of power in Zimbabwe. Most have a sense of entitlement rooted in their participation in the liberation struggle. They have financial power, control the coercive apparatus of the state with capacity to discipline rivals and are sufficiently educated to compete in ideological persuasions. In addition, they have strong but sometimes dubious local, regional and transnational networks. Also, the fear of retribution that sometimes comes with the winds of democratic change tends to unite them. The shadow state grip on power is characterized by internal contradictions in an inherently unstable polity.⁴

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¹ The ZDF consists of the army and air force. It is the only lawful military force in Zimbabwe.
⁴ This study is informed by a qualitative study carried out in different periods between April and September 2019. A team of two field researchers conducted intensive fieldwork between 22 April and 3 May 2019. Twenty-six in-depth interviews were conducted, mainly in Harare, with a range of former government ministers, serving bureaucrats and civil servants working for the state, former members of the ZDF, civil society leaders, journalists and opposition leaders who served in the Zimbabwe Government of National Unity (GNU) from 2008 to 2013 and have an understanding of the complex workings of the state. A corpus of primary data collected by the author over the past ten years, which aims to understand how the Zimbabwean state works, augments the data collected for this report. Some of the themes that emerged from the interviews can be triangulated by other sources of evidence—such as the media, both private and public, local and global; civil society reports and secondary literature—to improve the reliability of report findings.
1. The character and evolution of the state

From the first decade of independence, beginning in 1980, ZANU PF (Zimbabwe African National Union–Patriotic Front) sowed the seeds for a shadow state through the creation of parallel military institutions that operated outside the central command of the Zimbabwe National Army (ZNA). These parallel institutions withdrew from civilian affairs in much of the second decade of independence. Instead, the army was more involved in the Second Congolese War, from 1998–2003, where it established parallel and frontier companies to loot diamonds, timber and other resources. The ruling party rather than the military became more visible in advocating for political domination by trying to superimpose its party committees on the bureaucracy, with rallying cries for a one-party state. In 2000, with the formation of the opposition Movement for Democratic Change (MDC), the army became more overtly involved in running civilian affairs outside the legally defined scope of their operations and did so with impunity. Authoritarian politics became increasingly militarized, as parallel operations became the modus operandi of governance.


In February 1980, Zimbabwe held its first elections after the end of colonial rule. Robert Mugabe’s ZANU PF won 57 out of 80 seats, while Joshua Nkomo’s Zimbabwe African People’s Union (ZAPU) took 20 seats. Ian Smith’s Rhodesian Front party won all 20 seats reserved for whites.5 Mugabe formed a unity government and took over as prime minister of Zimbabwe.

The immediate challenge was to integrate the military wings of the three parties; namely, the Zimbabwe People’s Revolutionary Army (ZIPRA) of ZAPU; the Zimbabwe African National Liberation Army (ZANLA) of ZANU PF; and the Rhodesian Security Forces (RSF) of the Rhodesian Front.6 In March 1980, Mugabe set up the Joint High Command to merge the ZANLA, ZIPRA and RSF into the ZNA. He prioritized consolidation of power by seeking direct control over the organs of state security. Emmerson Mnangagwa, who was Mugabe’s personal assistant during the liberation war, chaired the Joint High Command and Peter Walls from the RSF was the commander.7

When Walls resigned, Mugabe appointed his close wartime ally, Solomon Mujuru, as commander. The British Military Advisory and Training Team helped with the integration process and preferred to build a professional army. Mugabe did not want a purely professional military force but one that was modelled around the Chinese style of deploying soldiers to different economic production units.8 The overall failure to build an integrated professional army can be attributed to Mugabe’s penchant for the creation of a shadow state. Parallel to the ZNA, for example, Mugabe created the Korean-trained Presidential Guards, the Artillery Regiment, the notorious 5th Brigade and the Zimbabwe’s People’s Militia (ZPM).9

A key moment in the development of the shadow state was Mugabe’s visit to North Korea in 1981, when Kim Il-Sung—the then North Korean leader—offered him military weapons, money and military instructors.10 In particular, these resources helped Mugabe create the 5th Brigade, which was under the command of Perrance Shiri from the ZANLA. In January 1983, the 5th Brigade was deployed to

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9 S J Gatsheni, ‘The post-colonial state and Matabeleland’, 44.
crush and eliminate dissidents, along with the ZAPU in Matabeleland and Midlands provinces. At least 20,000 civilians were killed between 1982–1987 in what became known as *Gukurahundi* (loosely translated, this term derived from the Shona language means ‘the early rain that washes away the chaff before the spring rains’).\(^1\) By 1985, Mugabe had successfully created the ZPM, with more than 20,000 paramilitary troops.\(^2\) Many saw the ZPM as an extension of ZANU PF, which was meant to destroy ZAPU under the explicit orders of Mugabe.

In the first decade of independence, Mugabe sowed the seeds of a shadow state by creating parallel military institutions to consolidate power outside the formalized command of the ZNA. Western powers and many Zimbabweans ignored this however, because developmental projects in education, health and other social services earned the state popular legitimacy outside Matabeleland.

*Covert shadow state: 1990–2000*

In the second decade of independence, with no serious political threat to ZANU PF, the state within the state largely operated behind the scenes. Zimbabwe was a de facto one-party state. The ruling party elites forcefully pushed for political domination through the establishment of a de jure one-party state. This was resisted by a coalition of student movements, the Zimbabwe Unity Movement, led by Edgar Tekere and the Zimbabwe African National Union led by Ndabaningi Sithole. ZANU PF resented any form of political opposition and ruthlessly dealt with such.\(^3\) During this decade, while there was a symbiotic relationship between ZANU PF and the army, the latter remained in the background. The ruling party moved to assert supremacy over state institutions and established parallel committees to supervise the work of professional civil servants.

Mugabe continued to consolidate power by appointing his loyalists and former ZANLA commanders into positions of authority. When Mujuru and Josiah Tungamirai (the former air force commander) retired in 1992, Mugabe appointed Vitalis Musungwa Zvinavashe ZDF commander in 1993. Zvinavashe was a loyalist and the former ZANLA chief of security and intelligence.\(^4\) There were no major parallel operations run by the army during this decade until 1997, when around 12,000 soldiers were deployed in the Democratic Republic of Congo (DRC) to protect then President Laurent-Désiré Kabila from armed rebels who sought to depose him from power.\(^5\)

On the economic front, in early 1990, Zimbabwe was experiencing problems of foreign exchange shortages, excessive government spending, fiscal deficits, declining industrial outputs and increasing debt. Consequently, the government adopted the economic structural adjustment programme (SAP) from the Bretton Woods institutions, which meant a reduction in state expenditure, market deregulation and a need to restore macro-economic stability.\(^6\) While there are debates on why it failed, the negative consequences of ESAP on state delivery are hardly disputed. One of the effects of ESAP is that the ruling officials became pro-elite rather than pro-poor. They formed new networks with liberal business groups such as the Confederation of Zimbabwe Industries. Beneficiaries of business deals were mainly from the Affirmative Action Group and the Indigenous Business

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\(^2\) Chitiyo and Rupiya, ‘Tracking Zimbabwe’s political history’, 343.


\(^6\) Sachikonye, *When a state turns on its citizens*, 33.
Development Centre.\textsuperscript{17} The class of black entrepreneurs that emerged were largely lobbyists who used connections to gain tenders outside formal state institutions. Those that were not compliant, such as Strive Masiyiwa, founder of the Econet Group, were hounded out of the country.

By the middle of the decade, annual growth rates slowed to 1 per cent in 1995, formal employment declined, wages dropped, foreign exchange earnings slipped and inflation escalated.\textsuperscript{18} The economic hardships caused general discontent among the populace. It was evident in the 1996 presidential election that ZANU PF political support was dwindling. In this context, the government paid unbudgeted gratuities to war veterans in 1997 to buy political loyalty. The decision undermined the technocrats and the ESAP. The economy continued to decline with devastating effects on the urban working class. The number of civil society organizations that challenged the government increased. Trade union resistance led by the Zimbabwe Congress of Trade Unions (ZCTU) also surged, which was met with state brutality.\textsuperscript{19}

Towards the end of the 1990s, social forces that had contested the one-party state, ESAP and corruption, along with the general decline of the economy and civic freedoms, coalesced and formed the National Constitutional Assembly to campaign for a new democratic constitution. In September 1999, the National Constitutional Assembly, the ZCTU and the Zimbabwe National Students Union, other civil society organizations and everyday people launched the MDC. The government gave in to political pressure and set up a constitutional commission that gathered the views of Zimbabwean citizens and drafted a constitution, which was presented for a referendum in February 2000. The state, or at least particular technical ministries, still had some input at the end of the decade but they were already being marginalized as ZANU PF faced a serious political threat.


A critical juncture in the formation of the shadow state was the constitutional referendum in February 2000. With the MDC campaigning for a no vote, the Zimbabwean people rejected the draft constitution by 54 to 46 per cent. This constituted a serious threat to ZANU PF hegemony. In the context of a pending general parliamentary election in the same year, the referendum was a portent for the national election results to come.\textsuperscript{20}

The MDC and other opponents of the government were denigrated as sell-outs, traitors and stooges of western imperialism and neo-colonialism.\textsuperscript{21} To ZANU PF, it became the third phase of the war of liberation, the Third Chimurenga.\textsuperscript{22} This was to justify violence and the overt deployment of the army in politics. ZANU PF co-opted security forces, traditional leaders, war veterans and later youth militias in their ideological, patronage and violent mobilization campaign for political hegemony. These co-optations changed the political and administrative terrain in ways that deeply entrenched the shadow state. Formal state institutions were disrupted and civil servants were beaten up. In most cases, civil servants were also superseded by ad hoc arrangements as the bureaucratic approach of the first two decades of independence was set aside for a partisan and authoritarian mode of domination. Retired and serving army officers began to be appointed in parastatals and other important state institutions.


\textsuperscript{18} Bond and Manyanya, \textit{Zimbabwe’s plunge}.


By early 2000, the Joint Operations Command (JOC) was established. It was made up of the commander in chief of the ZDF, the ZDF commander and the commander of the ZNA, the leaders of prisons, police, air force and intelligence services.\(^{23}\)

The JOC grabbed the powers of the cabinet, the politburo and civil servants in decision-making. Mugabe ensured that JOC members were loyal and indebted to him at all times. For example, Constantine Chiwenga was appointed ZDF commander in 2004 ahead of other senior ZANLA commanders.\(^{24}\) In order to easily mobilize funds outside the cabinet for JOC activities, Mugabe appointed Gideon Gono, a family friend, as head of the Reserve Bank of Zimbabwe (RBZ) in 2004. Gono took charge of mobilizing finances for the parallel activities of the shadow state.\(^{25}\) This enabled the military elites to have direct control over the formulation and implementation of their parallel activities. RBZ technical and official plans to revive the economy gathered dust as Gono is said to have recklessly printed money and funded quasi-fiscal activities, circumventing the finance ministry and raiding foreign accounts of private individuals, civil society organizations and companies.\(^{26}\)

The judiciary had also been violently purged, with Mugabe replacing professional judges with loyalists such as Godfrey Chidyausiku, a former ZANU PF minister, who was made the chief justice. With impunity, the JOC led military style parallel operations. Operation *Murambatsvina* (drive out the filth) in 2005 is a primary example. The operation was ‘the state’s politicized programme of mass urban demolitions … through which 700,000 people lost their homes and/or their informal urban livelihoods’.\(^{27}\) It was a way to drive out opposition supporters because the MDC support base was located in urban areas. Most ministers expressed ignorance of the operation, while a few others condemned it in the early days. Little did they know that Operation *Murambatsvina* was a decision made by the JOC with the approval of Mugabe outside the official cabinet.

The military extended its parallel operations to electoral politics in defence of the ruling party. In the June 2000 parliamentary elections, more than 30 opposition supporters were killed by state security agents, war veterans, youth militias and ZANU PF supporters.\(^{28}\) More than 200,000 cases of politically motivated violence were recorded by NGOs from January to June 2000.\(^{29}\) ZANU PF won 62 of the 120 contested seats, the MDC 57 seats, and ZANU retained one seat. The following 2002 presidential elections and the 2005 parliamentary elections were also won by ZANU PF but characterized by violence. ZANU PF lost the 2008 general election, however.

In the presidential poll, MDC opposition leader Morgan Tsvangirai received 47.9 per cent of the vote while long-time ZANU PF leader Mugabe received 43.2 per cent. Chiwenga, Mnangagwa, Perrance Shiri (chief of the air force), Augustine Chihuri (chief of the police service) and Happyton Bonyongwe (chief of the intelligence services), who were JOC members, vetoed the election result. With violence and repression growing, Tsvangirai withdrew from the run-off on 22 June 2008. Mugabe contested alone and was declared president on 29 June 2008, with 85 per cent of the vote. The Southern African Development Committee (SADC), the African Union (AU) and the international community did not

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\(^{23}\) M-B Tendi, ‘Ideology, Civilian Authority’. The ZDF has a commander in chief who is the President and a commander of the ZDF appointed by the President.


accept the results. They called for dialogue instead, which resulted in the formation of the Government of National Unity (GNU), incorporating the MDC alongside ZANU PF. The GNU governed from 2009 to 2013. During the GNU, there was further informalization of power as ZANU PF sought to circumvent the MDC and consolidate its power base moving forward to the 2013 general elections, which it resoundingly won.

An overt shadow state: 2013–2019

From 2013, ZANU PF remained inherently unstable due to the unresolved question of Mugabe’s successor. Military intelligence engineered the unceremonious and gender-based political destruction of former ZANU PF vice president, Joice Mujuru.\(^{30}\) She led a rival faction angling to succeed Mugabe. In 2014, Mnangagwa was appointed as vice president but his tenure was unstable. Grace Mugabe, wife of Mugabe, formed an alternative bedroom shadow state. The succession struggle came to a head when the militarized state took over power through a coup in November 2017, destroying the political faction led by Grace and facilitating the installation of Mnangagwa as president. Since then, there has been a reconfiguration of actors within the shadow state as Mnangagwa is trying to build it in his own image. While the shadow state has a grip on power, it is also characterized by internal contradictions in an inherently unstable polity.

2. The shadow state at work

The entrenchment of the shadow state and how it works may be demonstrated in a series of four case studies that detail its operations. These case studies examine shadow state capture of farmland, the agriculture and fuel sectors, mining assets, and electoral and state power politics. Each case study highlights distinct aspects of shadow state operations, with the militarization of Zimbabwe an overarching theme.

Militarization of farmland

From February 2000, Zimbabwe witnessed disorderly and violent processes of occupation of white-owned commercial farms on a scale unprecedented in post-colonial Africa. In what has become known as Fast Track land reform, securocrats, war veterans, youth militia, traditional leaders and rural populations were key actors in the initial invasions. Most of the beneficiaries of large-scale farms and multiple other farms in high potential agro-ecological zones were political loyalists of those in the power circles at the core of the regime.\(^{31}\) At a national level, around 400 political loyalists acquired a total of 2 million hectares, which left 5.6 million hectares for about 160,000 rural households.\(^{32}\)

Based on government data analyzed by the author, among the 400 political loyalists who benefitted were nearly 200 military elites, ranging from the rank of major to lieutenant general. A sample survey of those who acquired farmland in the Chipinge district shows that on A2 farms (large-scale farms), members of the army and their networks—consisting of ZANU PF politicians, traditional leaders and senior civil servants—along with Mugabe’s relatives, benefitted from gaining control of multiple

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\(^{30}\) Tendi, ‘State intelligence’.


farms. This is far from the government policy of one person, one farm. The primary data shows a similar trend, with 20 per cent of beneficiaries in the Chipinge district senior army officers (see Annex 1 for a detailed overview).

Even on A1 farms (small-scale farms meant for poor households), the security sector and their networks were major beneficiaries in the fertile parts of the country, including Chipinge district. Data related to A1 farms indicates four main types of beneficiaries: Civil servants; traditional authorities; war veterans; and security services. Table 1 shows the profile of Fast Track land reform beneficiaries, with 15 per cent of these members of the security services, dominated by members of the Zimbabwe National Army (ZNA). Although members of the security services were numerically fewer than other groups, those that benefited had a larger share of the farms than others.

Table 5.1: Profile of A1 beneficiaries in Chipinge district

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage of beneficiaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil servants</td>
<td>35.0</td>
</tr>
<tr>
<td>Traditional authorities</td>
<td>22.2</td>
</tr>
<tr>
<td>War veterans</td>
<td>16.7</td>
</tr>
<tr>
<td>Security Services</td>
<td>15.0</td>
</tr>
<tr>
<td>Other ordinary citizens</td>
<td>6.9</td>
</tr>
<tr>
<td>Former farmworkers</td>
<td>4.2</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: compiled by author from survey data (N=70).

A separate study of A2 farms in the Goromonzi district shows that 18 per cent of beneficiaries are from the ZNA and 6 per cent from the Zimbabwe Republic Police (ZRP) and state intelligence officers from the president’s office. In contrast, however, a similar study in Masvingo province finds that only 1.8 per cent of total beneficiaries on A2 schemes are from the security services. This is partly because Masvingo is a low potential agro-ecological zone. Nevertheless, a careful read of the Masvingo data shows a trend of elite capture: 3 per cent of beneficiaries received nearly a quarter (23.7 per cent) of the redistributed Fast Track land. Disaggregation of the data reveals that there were a minimum of 58 individuals who acquired a total of 111,330 hectares, which means on average each beneficiary got about 1,920 hectares of land during Fast Track. The beneficiaries were senior ruling party officials, senior civil servants, traditional leaders, cabinet members and ZNA officers. All these were critical networks in the shadow state. Members of their financial networks, such as Muller Conrad (Billy) Rautenbach, a wealthy white Zimbabwean business person with close ties to the Mugabe regime and a controversial business history, also owned huge tracts of land in the same province.

In the first phase of the technocratic land reform in the 1980s, members of the security services were not beneficiaries and did not fit the criteria. How, then, did they subsequently acquire farmland? Though the government put in place policy procedures about how people were to be allocated land after the invasions of 2000, what happened in practice was different because politicians set up parallel committees. On A2 farms, the policy stipulated that aspiring beneficiaries had to fill in an application form that required proof of experience in farming, proof of ownership of property and proof of

35 Scoones et al., *Zimbabwe’s land reform: myths and realities*, 33.
36 Scoones et al., *Zimbabwe’s land reform: myths and realities*, 35.
38 Interview with ministry of lands official, Dzimbabwe Lodge, 13 July 2019.
financial capital. Applicants were also required to provide a comprehensive business model for the farm. The applications were supposed to be assessed by a provincial committee comprised of a number of technocrats from different government departments.

Instead, the government set up parallel land identification committees at provincial and district level. This was because the ZANU PF leadership did not entirely trust the technocrats or civil servants on the provincial committees, who were alleged to sympathize with the opposition. In most cases, these parallel land identification committees were dominated by ZANU PF members, members from the security forces, war veterans and traditional leaders. Politicians subverted the policy process and political rather than rule-bound technocratic procedures took centre stage in terms of who got land. The parallel institutional framework put in place to oversee Fast Track was the district land committee. In the majority of cases, the DLC had the final say in confirmation of land occupations or allocation of land to applicants. In Chipinge district, the DLC was composed of the Zimbabwe National Liberation War Veterans Association district chairperson, the ZANU PF district chairperson, head of AGRITEX (Agricultural Technical and Extension Services), head of the department of lands, the representative of the chiefs, the district administrator and a security sector representative. In the Goromonzi district, a similar pattern is observed.

Fast Track was not just about transferring land but also about entrenching the military and other vigilante groups as a parallel centre of power in order to prop up a waning regime. They used violence for both political and material reasons, doing so with impunity from state institutions. Mugabe gave an order to the effect that no police officer was to intervene with the informal groups on the farms. As one observer notes, ‘It [violence] was used to seize land from 4,500 white farmers ... and to destroy the political base of MDC amongst farm workers whose households had a population of about two million.’

To the extent that security personnel were now farmers, they still maintained constant surveillance, doubling as the safeguards of ZANU PF and enforcing discipline on the farms. The partiality of the security forces is linked to fear of being targeted themselves by the shadowy groups that have the support of the president and also the desire to protect their material possessions by maintaining the status quo. For example, Paradzai Zimondi, a decorated soldier and the head of the Zimbabwe Prison Services clearly states: ‘If the opposition wins the election, I will be the first one to resign from my job and go back to defend my piece of land. I will not let it go. ... I am giving you an order to vote for the President [Mugabe].’ Even though there might be contradictions within the security services, common material interests ensure that they are most likely to unite when faced with a perceived external threat.

Although parallel structures took over land allocations after 2000, the central state superstructure still maintained some control in cases where it needed to protect domestic and international capital, even

39 Alexander, *The unsettled land*.
42 Interviews with AGRITEX officer, Chipinge, 1 February 2011 and 29 April 2019.
43 Marongwe, ‘Interrogating Zimbabwe’s Fast Track land reform’.
44 Interview with former minister in Zimbabwe government, Holiday Inn, Harare, 23 April 2019.
45 Sachikonye, *When a state turns on its citizens*, 33.
46 Interview with police officer, Chipinge, 29 April 2019.
amidst chaos. For example, in Chipinge district, some army officers and war veterans invaded privately owned corporate estates (namely Makande and Southdowns estates) that produced bananas, coffee and tea but the anti-riot police drove out them in late 2000. One respondent working in the government district department of social welfare recalls, ‘The war veterans wanted to resist but they were beaten by the riot police and no one ever returned to that place.’ It later emerged that former Vice President Joice Mujuru had some business interests related to the estates.

Such state evictions of land invaders echo the argument that the relationship between the party ruling elites and the shadow state involved both a mix of collusion and contradiction, alliances and antipathies, and authority and subordination. In the lowveld (field, from Afrikaans; refers to various types of open country used for pasture or farmland) in Chisumbanje, for example, Chipinge district communal farmers violently lost more than 40,000 hectares of their agricultural land to Macdom (Pvt) Ltd and Ratings Investment, a corporation involved in bio-fuel production that is owned by Billy Rautenbach, a close ally of Mnangagwa and the late Mugabe. Rautenbach is also said to have acquired 229,000 hectares of land in Mwenezi, where he runs the Nuanetsi ranch and a wildlife conservancy. The process of acquiring land through Fast Track entrenched the economic power of military elites and their business networks operating in the shadow state.

**Militarization of the agriculture and fuel sectors**

Between 2004 and 2019, an elite network involving the Reserve Bank of Zimbabwe (RBZ) governors, fuel dealers and military elites introduced a number of parallel agricultural schemes, which played a key role in entrenching the shadow state. In 2004, for example, the RBZ introduced the productive sector facility for agriculture, sidestepping the agriculture ministry in post-settlement support. Under the productive sector facility, farmers were eligible for loans from the central bank at an interest rate of 25 per cent compared to the then prevailing market rates of up to 400 per cent. In 2005, another initiative, the agriculture sector productivity enhancement facility was introduced to help finance food production and rebuild the national herd. New farmers also received heavily subsidized fuel. In addition, the RBZ set up a farm mechanization programme meant to distribute farm equipment to both resettled and communal farmers. The RBZ used USD 200 million to finance the farm mechanization programmes outside the government ministry.

Another scheme was Operation Maguta/Sisuthi (we are full), which was launched in November 2005. This agriculture programme placed food production under the control of the ZNA—outside the responsible ministries. The programme was run by non-elected individuals in ways that benefitted them. Partisan traditional leaders and the politicized army played a role in the selection of beneficiaries.

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50 Interview with social welfare department officer, Chipinge, 8 January 2012.
52 Interview with estate farm manager, Chipinge, 28 April 2019.
54 Interview with Platform for Youth and Community Development member, Chipinge, 29 April 2019; see also The New Humanitarian, ‘President Robert Mugabe’s money men’.
beneficiaries. Traditional leaders did the initial selection of beneficiaries then passed their short list to members of the ZNA, who then approved the names and the release of agricultural inputs, which were usually kept at Grain Marketing Board depots.\(^{59}\) Distribution of farming inputs was ‘dependent on the political party supported by the recipients’.\(^{60}\) Under the programme, small-scale farmers in communal areas and in the resettlement schemes were given seed and fertilizers to boost food production throughout the country. The army would then take the grain harvests to the Grain Marketing Board depot to build strategic grain reserves, leaving farmers with what they (the soldiers) deemed was enough for consumption.\(^{61}\) As then RBZ head, Gideon Gono, who funded the programme, explains, ‘Under this programme, no doubt a huge food gap will be closed, effectively saving foreign exchange to go towards other priority sectors of the economy.’\(^{62}\)

While Operation *Maguta/Sisuthi* aimed ‘to ensure that trapped acreages of grains were planted to the key food security crops through provision of land preparation, seeds and fertilizers to selected farmers’,\(^{63}\) other observers take a more cynical view, suggesting that ‘giving the army effective control over large aspects of agriculture is keeping soldiers who might otherwise get bored and angry at their poor conditions, active and fed’.\(^{64}\)

In some cases, Operation *Maguta/Sisuthi* was characterized by violence. Soldiers beat villagers who grew market or export crops instead of planting maize.\(^{65}\) In particular, ‘Soldiers placed under Operation *Maguta/Sisuthi* have been accused of beating, ill-treating and denying villagers and plot holders food despite forcing them to work for long hours without rest.’\(^{66}\) Under Operation *Maguta/Sisuthi*, rural areas became no-go areas for known opposition supporters: The army was not only concerned with food production but strengthening the ZANU PF support base in those areas.\(^{67}\) As with many command agriculture schemes, Operation *Maguta/Sisuthi* failed to reach its economic target of increasing maize production.\(^{68}\)

In 2008, the RBZ acted outside its fiscal mandate to distribute farm implements a few weeks before the harmonized council, parliamentary and presidential elections of 29 March 2008. This prompted Tendai Biti, the then secretary general of the MDC, to say, ‘Now, two weeks before the election, he [ZRB governor, Gideon Gono] is aiding ZANU PF to buy votes through the distribution of tractors and farm implements.’\(^{69}\) By September 2008, 3,000 tractors, 105 combine harvesters, 1,733 disc harrows, 100,000 ploughs, 78,000 scotch carts, 200,000 chains and 2,000 planters were distributed to farmers across the country.\(^{70}\) For the sub-programme, called the strategic food programme, the then minister of agriculture, Joseph Made, said the government had distributed 20 combine harvesters, 100

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61 Interview with army officer, Dzimbabwe Lodge, 14 July 2019.
67 Interview with civil society leader, Holiday Inn, Harare, 24 April 2019.
tractors, 400 generators, 750 motorbikes, 7,000 scotch carts, 4,000 animal drawn harrows, 50 fertilizer spreaders and 150 grinding mills across the country in 2008.71

At a parliamentary portfolio committee on agriculture on 17 July 2012, Gono refused to divulge the names of the beneficiaries of the distribution in 2008, giving a legal explanation: ‘Section 60 (1) of the RBZ Act [Chapter 22:15] forbids bank staff from disclosing information relating to the affairs of the bank or a customer unless lawfully required to do so by any court or under an enactment.’72 This prompted former ZANU PF Goromonzi North MP, Paddington Zhanda, a then member of the committee, to walk out of the meeting in protest. The fact that a ZANU PF MP was infuriated by Gono’s refusal to disclose the names of the beneficiaries demonstrates that even within ZANU PF there was internal contradiction. According to other sources, however, the major beneficiaries were security officials, cabinet ministers, ZANU PF MPs and civil servants, who received tractors and other farm equipment.73

This network of shadowy beneficiaries used their power not only to acquire the farm equipment but also to loot huge amounts of fuel, ‘supposedly for agriculture, but then selling it on the black market’.74 Many ZANU PF officials benefitted from the fuel in Manicaland.75 For example, according to the Standard, the then ZANU PF Manicaland province chairperson, Shadreck Chipanga, received thousands of litres of fuel, claiming to have used it all for farming activities.76 Similarly, the then Manicaland governor, Tinaye Chigudu, is reported to have received thousands of litres of fuel, with other ZANU PF MPs and cabinet ministers in the province also benefitting.77 This was done outside the norms and procedures for fuel distribution, with impunity.

The plan to entrench the military in all frontiers of agrarian production structures reached its climax during the 2015–2016 farming season, when then Vice President Mnangagwa initiated a new command agriculture programme. According to the government, this scheme was meant to mobilize financial loans and inputs for farmers; repayment was in the form of produce. Mnangagwa, however, understood it as a way to buy the loyalty of military elites and rural populations in the context of declining economic resources. Following instructions from military and political elites, the RBZ and the ministry of finance channelled the earmarked money to Sakunda Holdings, the head of which is Kudakwashe Tagwirei, who according to a report in the Daily Maverick, has been involved in a number of the clandestine commercial deals as part of the shadow state.78 As a result, responsible ministries could not account for billions of dollars.

Specifically, the 2018 report of the auditor general indicates that the USD 3 billion allocated to command agriculture could not be accounted for.79 In July 2019, under oath, the permanent secretary in the ministry of lands and agriculture, Ringson Chitsiko, and the finance director, Peter Mudzamiriri, told the parliamentary public accounts committee that the USD 3 billion had not been disbursed

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71 African Agriculture blog, ‘Zimbabwe acquires equipment’.
72 Chifamba, ‘Gono and Zhanda’.
73 Interview with AGRITEX officer, Goromonzi, 13 July 2019.
76 Chimhete and Mokwetsi, ‘Top chefs’.
77 Chimhete and Mokwetsi, ‘Top chefs’.
through the ministry and therefore could not be traced.\textsuperscript{80} At the same committee meeting, the permanent secretary in the ministry of information, Nick Mangwana, explained that the money was appropriated through different institutions because command agriculture was a special project.\textsuperscript{81} If anything is special about this money, it is that it was used to buy the loyalty of military elites at a crucial stage in the battle to succeed Mugabe, fund the military coup in November 2017 and finance Mnangagwa’s election campaign in 2018.\textsuperscript{82} This makes efforts to recover the money futile.

Following Mnangagwa’s ascension to power in November 2017, command agriculture has intensified despite resistance from technocrats in the ministry of finance and the IMF. On 1 August 2019, for example, Mthuli Ncube, the minister for finance, allocated USD 2.8 billion to command agriculture in a supplementary budget. Initially, it was not part of his plan, as he had already agreed with IMF officials to scrap the programme.\textsuperscript{83} He was, however, instructed by members of the Joint Operations Command (JOC) to include it in the budget a day before.\textsuperscript{84} This prompted the IMF to issue a public statement condemning command agriculture. The current head of the air force, Air Marshal Elson Moyo, was adamant that command agriculture would go on for the next decade.\textsuperscript{85} It is most likely that the private sector and commercial banks will be roped in to sanitize the programme. Behind the scenes, though, the military will remain in control. By July 2019, 10 lieutenant colonels and 60 majors from the ZNA were already deployed to implement and monitor command agriculture across the nation.\textsuperscript{86} Junior army officers were also deployed throughout the country to monitor ministry of agriculture provincial and district offices.\textsuperscript{87} In 2019, for example, almost all ministry of agriculture district offices in Mashonaland East province had a member of the ZNA in their midst.\textsuperscript{88} These district offices are where beneficiaries are vetted, selected, registered and contracted. Hence, it was important to deploy the army and ensure the side-lining of technical officials from the ministry of lands and agriculture in order to protect the interests of the military.

In addition to getting tenders to supply the inputs for the military-run command agriculture programme, Sakunda Holdings in partnership with Trafigura, a company based in Singapore, controlled the single existing fuel pipeline in Zimbabwe from Beira to Harare. All fuel importers in Zimbabwe have to bring fuel through the pipeline and pay a levy to Sakunda Holdings, in part because Tagwirei invested money to repair the pipeline.\textsuperscript{89} Similar to command agriculture, key figures in the shadow state backed Tagwirei in the fuel deal, including a former commander of the air force and a former head of the presidential guard.\textsuperscript{90} Tagwirei was so networked within the military that ‘At his father’s funeral, the Who’s Who in the army attended, leaving the barracks with no single senior commander.’\textsuperscript{91} Beyond controlling the fuel pipeline, Sakunda Holdings is alleged to have been given preferential treatment – including being able to offload government bonds at ‘hugely preferential rates’\textsuperscript{92} – from the RBZ.

\begin{itemize}
\item \textsuperscript{80} The Zimbabwe Independent, ‘Missing usd3bn’.
\item \textsuperscript{81} The Zimbabwe Independent, ‘Missing us3bn’.
\item \textsuperscript{82} Interview with former government minister, Harare, 3 August 2019.
\item \textsuperscript{83} Interview with RBZ official, 3 August 2019; and interview with retired senior military intelligence officer, Newlands, 15 July 2019.
\item \textsuperscript{84} Interview with retired senior military intelligence officer, Newlands, 15 July 2019.
\item \textsuperscript{85} L Ncube, ‘Command agriculture to continue for next 10 years’, \textit{The Chronicle}, 29 October 2018.
\item \textsuperscript{86} Interview with army officer, Dzimbabwe Lodge, 14 July 2019.
\item \textsuperscript{87} Interview with AGRITEX officer, Goromonzi, 13 July 2019.
\item \textsuperscript{88} Author observation, Mashonaland East Province, 13 July 2019.
\item \textsuperscript{90} Interview with senior war veteran, Harare, 4 August 2019.
\item \textsuperscript{91} Interview with senior war veteran, Harare, 4 August 2019.
\item \textsuperscript{92} \textit{Africa Confidential}, ‘Inside the State Capture project’, 27 August 2020, \url{https://www.africa-confidential.com/article-preview/id/13064/Inside_the_state_capture_project}
\end{itemize}
Despite unity on some fronts, on others there were contradictions within the shadow state. President Mnangagwa, Christopher Msengane (chairperson of the Zimbabwe National Liberation War Veterans Association) and Joram Gumbo (former minister of energy) favoured Mining Oil & Gas Services (MOGS) from South Africa to construct a second fuel pipeline. This would effectively end Tagwirei’s monopoly on fuel supply. In addition, Mnangagwa had business interests in the fuel industry through Zuva Petroleum, so the new deal could work better for him. In 2018, a deal with MOGS was still to be made and faced resistance from the military elites and their business networks. Gumbo says, ‘As government, I have said that we need a second pipeline, which would enable us to become a fuel hub in the region, but we have not yet done a feasibility study on the deal and we are yet to reach a decision on whether we indeed need it or not.’ Breaking the fuel monopoly would earn Mnangagwa popular legitimacy, weaken the financial power of military elites and undermine their parallel activities. Nonetheless, such a move remains politically risky for him, most notably because his political control depends in part on military elites.

Chiwenga, Tagwirei’s chief ally, fell sick and was admitted to a hospital in China amidst rumours that he was poisoned by political competitors within ZANU PF. In the absence of Chiwenga, Mnangagwa cleared the RBZ financial intelligence unit to temporarily close the bank accounts of Sakunda Holdings. Whether it was a mere public relations act or a serious move intended to break the fuel monopoly and prevent money laundering remains unanswered at the time of writing. What is clear, however, is that the state can still punish individual actors in the shadow state for misbehaviour.

**Militarization of mineral assets**

When Mugabe deployed the ZNA to intervene in the Democratic Republic of Congo (DRC) in August 1998, the Zimbabwe Defence Forces (ZDF) set up frontier companies in partnership with military, business and political elites in the DRC to advance clandestine commercial interests outside the formal government. Mnangagwa, then speaker of parliament, was the key strategist behind ZDF commercial interests in the DRC. This endeared him to the military elites. One of the companies set up during this time was COSLEG (Pvt) Ltd, a joint Congo–Zimbabwe company specializing in mining, timber and banking. The network of military elites that included Perrance Shiri and Sibusiso Moyo is reported to have acquired USD 5 billion of assets through private companies without any benefit to the treasuries of Zimbabwe or the DRC. Yet these deals were made on the pretext of repayment of services rendered by the Zimbabwe military during the Second Congolese War. Table 2 identifies the military elites who controlled COSLEG.

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93 Karombo, ‘The politics of petrol’.
95 Nicole Beardsworth, Nic Cheeseman, and Simukai Tinhu. “Zimbabwe: The coup that never was, and the election that could have been.” *African Affairs* 118, no. 472 (2019): 580-596.
97 Telephone interview with RBZ official, 25 September 2019.
98 Interview with former army officer who served in the DRC, Chipinge, 2 February 2011; and interview with former army officer, Norton, 5 August 2019.
101 COSLEG (Pvt) Ltd is a joint venture company formed by the Democratic Republic of Congo-based entity Congo Comix and the ZDF company, Operation Sovereign Legitimacy (OSLEG). COSLEG was set up for the purpose of pursuing business opportunities in timber and minerals found in Katanga Province in the DRC.
ZDF elites also had a number of other companies that covered their commercial interests. Oryx Natural Resources, run by Thamer Bin Said Ahmed Al Shanfari from Oman, was used as a front for ZDF military elites.\footnote{UN Security Council, S/2002/1146, 9.} This relationship was clear in the Sengamines diamond concession, worth USD 2 billion. On paper, Oryx Natural Resources claimed to own 49 per cent of Sengamines but this percentage was instead owned by OSLEG, a military company belonging to the ZDF.\footnote{UN Security Council, S/2002/1146, 10.} Sibusiso Moyo worked closely with Oryx Natural Resources in his capacity as director of OSLEG.\footnote{UN Security Council, S/2002/1146, 8.} Al Shanfari financially supported ZANU PF during the 2000 parliamentary elections.\footnote{UN Security Council, S/2002/1146, 8.} Tremalt Limited, which was owned by John Bredenkamp, a wealthy white Zimbabwean businessperson, was another front for the ZDF. Tremalt Limited had rights to mine copper and cobalt worth more than USD 1 billion.\footnote{UN Security Council, S/2002/1146, 10.} The United Nations, for example, ‘obtained a copy of the confidential profit-sharing agreement, under which Tremalt retains 32 per cent of net profits, and undertakes to pay 34 per cent of net profits to the Democratic Republic of the Congo and 34 per cent to Zimbabwe’.\footnote{UN Security Council, S/2002/1146.} Tremalt also provided the Zimbabwean military elites with military equipment, clothing, aircraft spares and money.

**Table 5.2: Military elites who controlled COSLEG**

<table>
<thead>
<tr>
<th>Name</th>
<th>Position in ZDF</th>
<th>Position in COSLEG</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vitalis Zvinavashe</td>
<td>commander of ZDF</td>
<td>executive chairperson</td>
</tr>
<tr>
<td>Sibusiso Moyo</td>
<td>brigadier general</td>
<td>director general</td>
</tr>
<tr>
<td>Mike Karakadzai</td>
<td>air commodore</td>
<td>deputy secretary</td>
</tr>
<tr>
<td>Simpson Sikhulile</td>
<td>Colonel</td>
<td>director of defence policy</td>
</tr>
<tr>
<td>Sydney Sekeramayi</td>
<td>minister of ZDF</td>
<td>Shareholder</td>
</tr>
</tbody>
</table>


Zvinavashe, Moyo and Karakadzai worked closely with the joint venture that ran the copper and cobalt concession, Kababankola Mining Company, in which Tremalt had an 80 per cent share to the 20 per cent of Gécamines (La Général des carrières et des mines), a Congolese commodity trading and mining company headquartered in the Katanga region of the DRC.\footnote{UN Security Council, S/2002/1146, 10.} Rautenbach was the head of Gécamines from November 1998 to March 2000.\footnote{UN Security Council, S/2002/1146, 9.} Dube Associates, which was linked to Colonel Tshinga Dube of Zimbabwe Defence Industry (ZDI), was also involved in secret diamond mining in the DRC.\footnote{Global Witness, ‘Financing a Parallel Government?’; UN Security Council, S/2002/1146.} These activities were linked to the Ukrainian diamond and arms dealer, Leonid Minim. Minim was later arrested at the Hotel Europa which he owned outside Milan and found with half a million dollars of diamonds, among other illegal possessions in July 2001.\footnote{Traynor, I, ‘The international dealers in death’, The Guardian, 9 July 2001.} The shadow state was also involved in diamond trading.\footnote{UN Security Council, S/2002/1146, 10.} The ZDF had a joint venture diamond-trading company with Thorntree Industries in which Tandan Holdings, owned by Nico Shefer—a known criminal in South Africa—had a stake.\footnote{Global Witness, ‘Financing a Parallel Government?’; UN Security Council, S/2002/1146, 13.} Shefer facilitated trainings for diamond evaluation for the military elites in South Africa.\footnote{UN Security Council, S/2002/1146.}

The shadow state was trying to control the value chain. Its business networks also smuggled diamonds from the DRC.\footnote{UN Security Council, S/2002/1146, 9.} The shadow state increased its financial power and ambitions to control natural
resources. These pacts enabled the ZDF to set up parallel accounts to fund its activities without the knowledge of or accountability to the central government. Mugabe was aware of and approved the parallel operations of the ZDF in order to buy the loyalty of the military elites who were essential for sustaining his autocratic rule.\textsuperscript{118}

The shadow state activities of the ZDF were not limited to the DRC. Military elites replicated their model at home to control the rich mineral assets in Zimbabwe. The majority of joint venture companies that mined newly discovered fields of alluvial diamonds in eastern Zimbabwe in the 2000s had links with the military and the Central Intelligence Organisation (CIO).\textsuperscript{119} In 2013, a parliamentary portfolio committee on mines and energy enquiry revealed that the designated ministers did not know who selected these companies to mine diamonds. Most of the cabinet members were not privy to the ownership structure of Anjin, for example.\textsuperscript{120} Zimbabwe’s biggest diamond mining venture, Anjin is run by a network of Chinese business people and Zimbabwean military elites. Independent investigations related to Anjin’s mining activities reveal that a 40 per cent share of the company was held by the ZDF.\textsuperscript{121} Table 3 demonstrates the link between the Zimbabwean executive board members of Anjin and the military, police and ruling party elites.

\begin{table}[h]
\centering
\begin{tabular}{ |l|l| }
\hline
\textbf{Name of board member} & \textbf{Position in the army} \\
\hline
Martin Rushwaya & permanent secretary in the ministry of defence \\
Oliver Chibage & commissioner in the ZRP \\
Nonkosi M Ncube & commissioner in the ZRP \\
Munyaradzi Machacha & head, ZANU PF Herbert Chitepo School of Ideology \\
Morris Masunungure & retired officer in the ZDF \\
Romeo Daniel Mutsvunguma & retired colonel in the ZDF \\
Charles Tarumbwa, company secretary and principal officer & brigadier general \\
\hline
\end{tabular}
\caption{Zimbabwean executive board members of Anjin}
\end{table}

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Some of the executive board members were implicated in the 2008 political violence in Zimbabwe.\textsuperscript{122} These are Mutsvunguma and Tarumbwa, who directed terror operations in Manicaland province.\textsuperscript{123} Zimbabwe state security services also had links with Sino–Zimbabwe Development (Pvt) Ltd with interests in mining, property and agriculture. The company was registered in Zimbabwe, Singapore and the British Virgin Islands.\textsuperscript{124} It had a license to mine diamonds in Marange. A notorious Hong Kong business mogul, Sam Pa, played a key advisory role in setting up Sino–Zimbabwe and was crucial in funding ZANU PF during the 2013 general elections.\textsuperscript{125} He handed out no less than USD 1 million, along with Nissan Double Cab vehicles, to the CIO in exchange for concessions for diamond mining and other

\begin{flushright}
118 Interview with former government minister, Harare, 3 August 2019.
120 Interview with leading mining activist, Holiday Inn, Harare, 24 April 2019.
121 The Zimbabwe Independent, ‘Securocrats use diamond firm as front’, \textit{The Zimbabwe Independent}, 3 August 2012.
123 The Zimbabwe Independent, ‘Securocrats use diamond firm as front’.
125 Interview with former finance minister, Harare, 24 April 2019.
\end{flushright}
business opportunities. For his role, the United States placed him under sanctions in 2014. In 2015, he was arrested in China on separate corruption charges.

Some of the diamond mining companies did not remit a single cent to the central treasury as required by law. This prompted former minister of finance, Biti, to complain: ‘So clearly there are challenges of opaqueness. Clearly, we fear as the ministry of finance that there might be a parallel government somewhere in respect of where these revenues are going, since they are not coming to us.’ Mugabe also publicly denounced the diamond mining companies in 2016, claiming that Zimbabwe had only received USD 2 billion out of an expected USD 15 billion from the diamonds since 2008. This was an exaggeration by Mugabe, as the diamonds could not be worth this amount of money, though the real value is difficult to establish. It is alleged that Zimbabwean generals were already making a war chest to fund the succession battle for the presidency. Despite wielding significant power, the shadow state has not always operated without resistance. In 2016, Mugabe also issued a directive expelling Anjin from diamond mining in Zimbabwe, which reveals the complicity and contradictions of the shadow state.

After Mnangagwa became president in November 2017, Anjin was permitted to return to Marange to mine diamonds in April 2019. The new political regime has not undermined the military grip on the mining sector. Following a meeting between Mnangagwa and Russian president, Vladimir Putin, in January 2019, Zimbabwe and Russia signed an agreement to start the Darwendale platinum mining project. The mining prospect was held by Great Dyke Investments. Vi Holding had 50 per cent of the shares in the Great Dyke Investments concession, with another 20 per cent of the shareholding opaque. The other 30 per cent was owned by Pen East (Pvt) Ltd, which is controlled by the ZDF through ZDI. Minister of Mines, Chitando, confirmed the new government entered into an agreement with Afreximbank (The African Export–Import Bank) on financing the USD 3 billion project but did not give specific dates and details. Progress has been slow, however, because potential funders were worried about military involvement. This has been exacerbated by the fact that ZDI is under European and United States sanctions. Annually, the project has potential to produce 800,000 ounces of platinum group metals. ZDI involvement in the project demonstrates that in

130 NewsDay, ‘Biti sweats over funds’.
133 Interview with former government minister, Harare, 3 August 2019.
134 K Bwititi, ‘Anjin to sink 20 m as it resumes operations … Alrosa to operationalize office end of April’, Sunday Mail, 31 March 2019.
138 Njini et al., ‘Army Puts Backers Off’.
140 Interview with Zimbabwe Independent journalist, Harare, 12 July 2019.
142 Njini, et al., ‘Army stake threatens’.
Military retains its powerful grip on the vast mineral resources in Zimbabwe during the post-Mugabe era.

**Militarization of electoral and state politics**

In addition to the military commercialism, the militarization of the election management board is a persistent problem in Zimbabwe. In particular, this militarization is an enabling factor in the control the shadow state exerts over the Zimbabwean polity. The Zimbabwe Election Commission (ZEC) poses a serious threat to the integrity of electoral politics at the national and state levels due to its close links to the security forces. This was in evidence during the 2008 and 2018 elections. As Nelson Chamisa, the president of the MDC, asserts,

> It [the ZEC] is a very big area of concern. The involvement of the army and intelligence in the ZEC secretariat is at the core of the credibility of the next elections [2018]. That secretariat still has the mischief of the June 2008 elections hanging over it. ¹⁴³

The chief elections officer, the ZEC secretariat head, Major Utoile Silaigwana, who is responsible for the day-to-day running of the ZEC, was an active member of the military when he was first appointed as acting head of the ZEC in March 2018. Silaigwana first joined the ZEC in 2002, when Major General Douglas Nyikayaramba was the chief elections officer. According to a retired military intelligence officer, Nyikayaramba played a role in the militarization of the election secretariat in the 2000s as he was responsible for recruitment. ¹⁴⁴ Nyikayaramba overtly boasts: ‘I am in ZANU PF and ZANU PF is in me and you cannot change that.’ ¹⁴⁵ The militarization of the ZEC was made easy because of influential persons within the commission. After running the 2002 presidential and 2005 parliamentary elections, Nyikayaramba returned to the barracks. He was in full military regalia commanding an army unit that barricaded State House during the coup on 18 November 2017. ¹⁴⁶ It was against democratic principles for a serving army officer to run elections. ¹⁴⁷

The trend to militarize the ZEC continued as another retired army brigadier general, Justice George Chiweshe, was appointed as ZEC chairperson to run the 2008 general elections. He left in 2010 to become a high court judge. The current ZEC chairperson, Justice Priscilla Chigumba, told the parliamentary portfolio committee on justice and legal affairs that at least 15 per cent of the ZEC permanent secretariat of 383 members had a military background. ¹⁴⁸ Chigumba made it clear that at the time of their appointments to the ZEC they were still serving officers. No evidence was given of their resignation. As former MDC secretary general, Douglas Mwonzora, insists, however, that is immaterial because, as he says, ‘once a soldier always a soldier’; in other words, their political loyalties are still with the army. ¹⁴⁹ The steady militarization of the ZEC shows that the army has been deeply entrenched in electoral politics in Zimbabwe. ¹⁵⁰ This has far-reaching consequence: The army is at the centre of decision-making on the continuity of the state and who its elected leaders are.

The military went even further, directly campaigning for ZANU PF in the national elections. The involvement of ZANLA in political mobilization dates back to the liberation struggle. In post-independence Zimbabwe, however, the year 2000 marked the overt involvement of the army in

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¹⁴⁴ Interview with former military intelligence officer, Harare, 23 April 2019.
¹⁴⁵ Mail and Guardian. ‘Military’s place is in the barracks’. *Mail and Guardian*, 3 June 2011.
¹⁴⁶ Author observations, Harare, 18 November 2017.
electoral politics. Chiwenga, when he was ZNA commander, openly toured military barracks across the nation in order to mobilize electoral support for ZANU PF and Mugabe.151

Active campaigning for ZANU PF and Mugabe at that time is contrary to what appeared to be a covert strategy only one year before. After being asked to chant a slogan at a ZANU PF rally, Chiwenga replies, ‘We do not do slogans. We are here to protect you but you have to do whatever you want to do peacefully. We want peace.’152 The opposition became a real threat for ZANU PF after 2000 and it was therefore important to strengthen the loyalty of the security forces in response. The military became an important part of the electoral process when they were integrated in ZANU PF party structures, with war veterans and traditional authorities also included in the mobilization strategy. Then army chief of staff, Major General Martin Chedondo, makes evident the politicization of the army, summing up this symbiotic relationship thus: ‘We have signed and agreed to fight and protect the ruling party’s principles of defending the revolution. If you have other thoughts, then you should remove that uniform.’153

When Mugabe lost the first round of elections to Morgan Tsvangirai on 29 March 2008, the shadow state became more overtly entrenched. That is, ‘The Joint Operations Command, or JOC, made up of the heads of the army, air force, prison service, police and the CIO, and reportedly led by Mnangagwa, decided within days of the election to deploy a strategy of delay and violence in order to hold onto the all-important executive.’154 Decision-making authority was taken away from the party and from formal state organs. As a result, ZANU PF unleashed extreme terror characterized by abductions of opposition supporters, torture, arbitrary arrests and barring the opposition from campaigning. State radio also became blatantly partisan. An estimated 86 opposition supporters were killed in the run-up to the 27 June 2008 election, while approximately 200,000 were displaced, 10,000 homes destroyed, 10,000 were injured and many went missing.155 Mugabe was clear that the ‘pen would not defeat the gun’.156 Because of the escalating violence, the then MDC leader, Tsvangirai, withdrew from the run-off on 22 June 2008. Mugabe contested alone and was declared President on 29 June 2008, with 85 per cent of the vote. SADC, the African Union and the international community, however, did not accept the result and called for dialogue.

During the 2013 general elections, the army was again central to the ruling party campaigns. As former Minister Jonathan Moyo indicates, the 2013 ZANU PF election campaign group included himself, Mnangagwa (former minister of defence, who chaired it), Sydney Sekeramayi (former minister of state security), Patrick Chinamasa (deputy chair and former minister of justice), Nicholas Goche (former minister of transport and head of the CIO), Chiwenga (commander of the ZDF), Chihuri (former police commissioner general), Bonyongwe (former CIO director), Walter Tapfumaneyi (retired brigadier general), Kizito Gweshe (CIO) and George Charamba (spokesperson and permanent secretary in the president’s office).157

This parallel group engineered Mugabe’s overwhelming victory in 2013 but the regime was never internally stable after that because of the unresolved succession question. The shadow state preferred Mnangagwa to succeed Mugabe because of his liberation war credentials, seniority in ZANU PF and

153 T McVeigh, ‘Vote Mugabe or else, army chief tells soldiers’, The Observer, 1 June 2008.
157 M Ndlovu, ““Go to hell Strive Masiyiwa” Jonathan Moyo says as he spills more beans’, Bulawayo 24, 10 January 2019.
his commitment to protecting the commercial interests of the security services. Against this, Mugabe preferred a faction associated with his wife, Grace Mugabe. Grace forcefully advanced the ambitions of political elites in ZANU PF; namely, Savius Kasukuwere, Sydney Sekeramayi, Patrick Zhuwawo, Mandi Chimene, Jonathan Moyo and Walter Muzembi. Most of these were young people who did not have liberation war credentials. Her faction was known as Generation 40 (G40). Grace’s marriage to Mugabe enabled her to wield immense power.

Things came to a head when Mugabe fired Mnangagwa as vice president on 6 November 2017. The elements of the shadow state saw Grace as a competitor in the succession battle. She had successfully managed to create an alternative bedroom shadow state. The militarized shadow state did not only move to block the G40 from succeeding Mugabe but began to harbour ideas to topple Mugabe and govern, too. Chiwenga had long started to build a crop of army officers who were loyal to him. He also harboured presidential ambitions. It was Chiwenga who coordinated more than 90 members of the military top brass to stage a coup in November 2017. The military intervention led to Mugabe’s forced resignation on 21 November 2017. What united the command element of the army was ‘their shared liberation war history, a sense of entitlement and Grace’s naivety. Grace publicly said that liberation war credentials did not matter in the succession matrix. She was very naïve in threatening to remove the generals from power’.

The shadow state did not always use coercion to achieve its goals but instead sought consent and agreement during the coup in order to legitimate the process and build national consensus. For example, the military elites sent their emissary, a ZANU PF politburo member, Paul Mangwana, to ask for MDC cooperation in the removal of Mugabe. Mangwana asked the MDC to assist in the mobilization of masses to demonstrate against Mugabe and to vote for his impeachment in parliament. The MDC agreed to cooperate with the military elites. This was on the pretext that the MDC and ZANU PF would set up a transitional authority to institute political and economic reforms, and facilitate an internationally supervised free and fair election.

Prior to this, the military elites had long courted the support of pro-democracy social movements. Some leaders of the Zimbabwe Exile Forum, #ThisFlag, Tajamuka and mainstream civil society joined the plot to delegitimize Mugabe through the media and mass demonstrations. It was a short-term marriage of convenience. Lawyers who were sympathetic to Tsvangirai and Chamisa also assisted the military elites with legal advice. The commanders made the lawyers believe that ‘it was national duty to remove Mugabe’. Prominent pro-opposition political scientists also helped army commanders with scenario analysis at the barracks. The military elites took some of the advice but their main goal was to seek legitimation and a semblance of national consensus. After all, the army had its own long-trusted experts, along with its own tried and tested methods. This explains why the military elites parted ways with most of these unusual allies after accomplishing their goal of acquiring state power. For broader support, the shadow state also reinvigorated the alliances it had formed during the liberation war—alliances with South Africa, SADC, the AU and China. Mtswangwa was the main emissary for the military elites in the region. Chiwenga also courted the support of the Chinese government and military elites for the coup. The Chinese government denied this in public, as is

158 Interview with former permanent secretary, Harare, 8 August 2019.
159 Interview with former permanent secretary, Harare, 8 August 2019.
160 Interview with former ZANU PF politburo member, Cape Town, 4 January 2019.
163 Interview with Tajamuka activist, Harare, 9 August 2019.
164 Interview with MDC Lawyer, Harare, 8 August 2019.
165 Interview with prominent political analyst, 22 November 2017.
166 Interview with retired senior military intelligence officer, Newlands, 15 July 2019.
167 Interview with retired senior military intelligence officer, Newlands, 15 July 2019.
expected of diplomatic courtesy. The army promised Britain and the west that Zimbabwe would embark on a new democratic path.

After the November 2017 coup, Mnangagwa chose to go for a general election on 30 July 2018, which he won by a small margin with the assistance of manipulation by the shadow state. In his calculation, the 2018 general election would cleanse the coup, while giving him the credibility and legitimacy to govern effectively. On 1 August 2018, the army shot and killed six demonstrators and injured 35 others who were demonstrating in Harare for the speedy release of the election results. This dented the electoral process. The international observers condemned the use of force by the army against unarmed civilians. This shows that for the militarized deep state, coercion is always an option, depending on the size of the threat. In January 2019, the army again killed a dozen people who were demonstrating in the streets against price increases.

The regime ushered in by the shadow state remained inherently unstable with reported tensions between Vice President Chiwenga and President Mnangagwa. Mnangagwa appointed senior army officers to key government ministries: Sibusiso Moyo as minister of foreign affairs, Shiri as minister in charge of lands and agriculture and Chiwenga as both vice president and minister of defence in what was a show of unity. After the 2018 general elections, however, Chiwenga was moved from the defence ministry under the guise of adhering to the constitution, which does not allow a sitting vice president to be the minister of defence. Mnangagwa also retired some of the military elites who were involved in the coup, giving them civilian posts in the government. For example, Major General Anselem Nhamo Sanyatwe, who was commander of the Presidential Guard Brigade and a close ally of Chiwenga, was posted to Tanzania in an ambassadorial role. He was replaced by Brigadier General Fidelis Mhonda.

Air Vice Marshall Shebba Shumbayawonda, who was the acting commander of the air force and also a close ally of Chiwenga during the coup, was reassigned. Major General Martin Chedondo, another Chiwenga ally, and Major General Douglas Nyikayaramba, a Mugabe ally, were removed from their commissions and retired. All were reassigned to the ministry of foreign affairs in various positions. In August 2019, the commander of the artillery brigade in Domboshava, Brigadier General Stanley Mangena, who was in charge of the artillery during the coup, was moved to command agriculture and replaced by Brigadier General Sdyney Singizi, a close ally of Mnangagwa. The shadow state still exists but it is being reshaped in the context of unstable politics.

Military elites continue to be part of the system in a relationship characterized by complicity and contradiction. The JOC, which was chaired by Mnangagwa, remains the critical decision-making locus, sidelining both the cabinet and the party. The two most powerful members of the JOC are Phillip Valero Sibanda, the commander of the ZDF, a well-respected senior military strategist and a close friend of Mnangagwa, and Edzai Chimonyo, the commander of the ZNA. The ZNA is the most vital part of the ZDF, with an active ground force of 30,000 soldiers and a reserve force of about 20,000. The JOC meets almost every Monday, serving as a private think tank for the president. Most of the key decisions are made in this platform. The president then relays the crucial decisions to the formal cabinet meeting, which usually meets on Tuesdays. The JOC has practically superseded the ruling party

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168 Zamchiya, Competitive Electoral Authoritarianism.
171 J Thompson, ‘Mnangagwa retires top military men while vice-president is out of the country’, Times LIVE, 18 February 2019.
politburo and the cabinet as the key decision maker on important national questions, with large-scale consequences.

3. Impact of the shadow state

The entrenchment of the shadow state since 2000 has had negative impacts both politically and economically in Zimbabwe. In particular, the shadow state has resulted in inconsistent economic policy at the macro-level, high inflation, expanding militancy (especially among youth populations), human rights abuses, undemocratic elections and contested legitimacy, and a long-lasting food and fuel crisis culminating in socio-economic regression across the country.

**Inconsistency in economic policy and high inflation**

Printing money to fund shadow state activities resulted in official inflation rising to 231 million per cent in March 2008. Independent analysts calculated the peak month of inflation at 79.6 billion percent month-on-month by November 2008. This prompted the government to dump the Zimbabwe dollar and adopt the US dollar in 2009, instituting a multi-currency macro-economic policy that would last for a decade. Two years after Mnangagwa came to power, however, the JOC commandeered the return of the Zimbabwe dollar to fund quasi-fiscal activities (financial transactions undertaken by RBZ at state directives) in 2019. The JOC argued that the government was going to run out of US dollars and thus be unable to pay civil servants and members of the army. The deep state couched the return of the Zimbabwe dollar as a national security issue yet behind this decision was the motive to ensure the continuity of the patronage system. This usurpation of the role of the Reserve Bank of Zimbabwe (RBZ) and the finance ministry has resulted in inconsistent economic policy on the part of the minister, Mthuli Ncube. Prior to his appointment in 2017, for example, Ncube states:

> What I would argue now is that we remove the bond notes currency because it is becoming a surrogate currency to the Zimbabwean dollar without the macro-economic credibility to support it. The bond note currency is bad money and we know that in economics, bad money drives out good money. It is not surprising that the US dollar is now in short supply because people are not banking them. So the immediate course of action is to remove the bond notes and then let the US dollar become the core currency but over time we have to bring back Zimbabwe’s domestic currency. That’s what will deal with liquidity issues in a big way.

Such inconsistencies have scared potential investors and are bad for the economy.

The 2019 reintroduction of the Zimbabwe dollar at the behest of the JOC without all the macro-economic indicators in place fuelled inflation. In February 2019, the Zimbabwe dollar was pegged at 1:1 with the US dollar but after the introduction of mono-currency, it traded at 1:13 in August 2019. According to the IMF, annual inflation in Zimbabwe was 300 per cent in August 2019, making it the highest in the world after Venezuela. A survey carried out in Bulawayo by the state-owned newspaper, *The Chronicle*, revealed that the prices of basic commodities had increased by up to 100 per cent over a seven-day period in September 2019. The survey notes that a 2 litre bottle of cooking oil had increased from Z$ 28 to Z$ 35. The price of a 10 kg bag of mealie meal (corn meal) had increased by up to 100% in one week, *The Chronicle*, 8 October 2019. Unless otherwise specified, the figures in this paragraph are derived from this source.

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176 International Monetary Fund, ‘IMF Staff Concludes Visit for the Article IV Consultation and Discussions on the First Review of the Staff-Monitored Program to Zimbabwe’, press release No. 19/335, 26 September 2019.
177 P Shumba, ‘Prices up 100% in one week’, *The Chronicle*, 8 October 2019. Unless otherwise specified, the figures in this paragraph are derived from this source.
increased from Z$ 27 to Z$ 68. The price of a loaf of bread had gone up from Z$ 6.90 to Z$ 9, while 1 kg of salt had gone up from Z$ 4 to Z$ 7. A 2 kg packet of rice had increased from Z$20 to Z$ 25. Vegetables were not spared, with 10 kg of potatoes going for Z$ 50, up from Z$ 38. In this environment, local traders used their acumen to stay in business. They pegged their prices in line with the prevailing USD exchange rate to restore real value. Yet, civil servants and many workers continue to receive their salaries in Zimbabwe dollars despite prices being pegged to the USD exchange rate. Given that on average a civil servant earns USD 100 per month, most people could no longer afford basic commodities.

The involvement of business elites and private companies linked to elements in the shadow state that were involved in illegal foreign currency trade exacerbated inflation. For example, on the morning of 19 September 2019, the official exchange rate was 1:14, and 1:16 on the parallel market. By midday, the rate shot to 1:23 on the parallel market and on the following day, it was 1:30. Companies with links to Mnangagwa and the military elites had bought foreign currency on the parallel market, fuelling high exchange rates. The RBZ, with approval from Mnangagwa, disciplined these shadow state networks. The RBZ gave a directive to all banks to freeze transactions in respect of all accounts in the names of Sakunda, Access Finance, Spartan Security and Croco Motors and related entities. They suspected they were involved in illegal foreign currency trade. Therefore, the central state has capacity to discipline the networks of the shadow state if their activities trigger discontent that threatens the power base of the government.

Increased militancy

The militarization of the state has led to a new wave of militancy in the polity of Zimbabwe. There has been a great push by youth populations to use violent and radical politics to remove barriers to democratic development. The youths are frustrated by the army role in violating human rights and reversing electoral outcomes. As one MDC youth explains:

> We have tried everything through peaceful means but the state is blocking us with guns. Smith was removed by the gun. Mugabe was removed by the gun, so we must remove Mnangagwa by the gun. The system never respects the people’s vote and our options are becoming limited.

During the demonstrations in which they took part in August 2018, youth groups sang: *ndikafunga vhoti yangu ndnorara ndigere* (if I think of how my vote was stolen, I have sleepless nights). Youths expressed similar sentiments at an MDC constituency feedback meeting held in Hwange in September 2019. The clamour for a militant response is captured by one youth, who says:

> There is no constitutionalism in Zimbabwe and as such Chamisa should be allowed to have his own army. We are all trained one way or the other in security skills. We know how to hold a

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180 Telephone interview with business person, 25 September 2019; and telephone interview with RBZ official, 25 September 2019.

181 Telephone interview with RBZ official, 25 September 2019.


183 Interview with MDC Youth, MDC Headquarters, Harare, 1 August 2018.

184 Author observation, MDC Headquarters, Harare, 1 August 2018.
gun and fire it. ... We suggest that Chamisa should recruit youths and train them so that they all have guns and if the army shoots at us we all shoot back.\textsuperscript{185}

The MDC national leadership has been consistent in calling for peaceful and constitutional means to remove the ZANU PF government. A report by the Zimbabwe Human Rights NGO Forum indicates that there is a greater propensity for civilians to become more involved in violent acts after November 2017. The Zimbabwe Human Rights NGO Forum report argues that, ‘With 70\% of the population under the age of 35, the risks posed by frustrated and angry young people, most of whom are unemployed (and with little prospect of employment in the near future), this was bound to happen,’\textsuperscript{186} This state of civil unrest is a danger to society.

\textit{Human rights violations}

Zimbabwe has witnessed an increase in human rights violations by the army. Violations have been more frequent in Mnangagwa’s first term (24 November 2017 to 30 August 2019) than in Mugabe’s last term in office (August 2013 to 21 November 2017). These have been the most violent acts committed by the army since its deployment to deal with mass demonstrations led by the Zimbabwe Congress of Trade Unions (ZCTU) in 1998.\textsuperscript{187} The current violations include street killings, abduction of government critics, physical beatings and sexual violence.\textsuperscript{188} Because the shadow state has become more entrenched after the November 2017 coup, the army has exercised autonomous decision-making powers in domestic deployments outside those defined by the law. Actors involved in human rights violations and acting outside the laws and procedures that define the scope of military decision-making powers are not held to account by formal state agencies, which perpetuates the culture of impunity.

The blatant violation of human rights by the army has also contributed to the imposition of sanctions on Zimbabwe and restrictive measures on the travel of perpetrators. For example, the United States recently added Sanyatwe to its sanctions list after his controversial role in the deployment of soldiers that killed unarmed civilians in the streets on 1 August 2018. Thus, the excesses of the shadow state continue to worsen bilateral and multilateral relations. Zimbabwe is now more violent after the shadow state executed the coup in November 2017.\textsuperscript{189} As Chamisa notes, ‘What is clear is that it is turning out that the [Mnangagwa] regime is far worse than the Mugabe regime. They make Mugabe appear like an angel. One can actually think that Mugabe is back.’\textsuperscript{190}

\textit{Food and fuel crisis}

Since 2004, the military-led agricultural schemes have failed to address food shortages in Zimbabwe. The food crisis has been a familiar story albeit to different degrees over different seasons since that time. Zimbabwe has remained a net importer of food even though it was an exporter before 2000. Other valid reasons that contribute to the food crisis include frequent droughts, the chaotic Fast Track land reform and the general decline of the economy. Nonetheless the militarization of farmland and the agriculture sector has contributed significantly to the food crisis. Billions of dollars that could have helped to boost production were diverted to fund non-agrarian parallel activities of the army.\textsuperscript{191} Consequently, food shortages continue, with the agriculture ministry acknowledging a shortage of

\begin{itemize}
\item \textsuperscript{185} ‘MDC supporters demand military training, guns’, \textit{New Zimbabwe}, 11 September 2019.
\item \textsuperscript{187} The Zimbabwe Human Rights NGO Forum, ‘The new deception’.
\item \textsuperscript{188} The Zimbabwe Human Rights NGO Forum, ‘The new deception’.
\item \textsuperscript{189} The Zimbabwe Human Rights NGO Forum, ‘The new deception’, 18.
\item \textsuperscript{190} Conversation with Nelson Chamisa, Harare, 8 June 2019.
\item \textsuperscript{191} Interview with former minister in Zimbabwe government, Harare, 23 April 2019.
\end{itemize}
902,381 tonnes for human consumption in 2019.\textsuperscript{192} Because of this shortage, in February 2019, the government asked the UN for USD 234 million to feed more than 7.5 million citizens in need of food between February 2019 and March 2020.\textsuperscript{193} Despite the failure of military-leg agricultural schemes to reduce food shortages, Elson Moyo (current air force head) was adamant that command agriculture would continue for the next ten years.\textsuperscript{194}

The country also faces fuel shortages, partly because of the monopoly created by Sakunda Holdings in conjunction with military elites. Zimbabwe needs about 100 million litres per week but Sakunda–Trafigura only supplied 20 million litres a week.\textsuperscript{195} Other suppliers brought in about 25 million litres per week. In contrast, the South Africa-based company, Mining Oil & Gas Services (MOGS), proposed bringing in about 100 million litres a week.\textsuperscript{196} The fuel monopoly also contributed to the rise in fuel prices, which has resulted in civil unrest. In January 2019, Zimbabwe had the most expensive petrol in the world at USD 3.31 per litre, followed by China at USD 2.06.\textsuperscript{197} The pricing was based on exchange rate of 1:1 between the bond note and the US dollar. On 30 September 2019, diesel prices rose to 15.64 local currency per litre and petrol to 14.97 local currency per litre.\textsuperscript{198} This was based on the exchange rate of 1:9.5 between the local currency and the US dollar. Even though the minister for finance, Ncube, maintained fuel in Zimbabwe was cheaper in comparison to neighbouring countries, this could trigger hyperinflation. Ethanol blends have failed to ease the fuel shortages or impact on price reductions because it is overpriced with the consent of the shadow state.

\textit{Undemocratic elections and contested legitimacy}

The active involvement of military elites in the elections and in politics has led to undemocratic and disputed elections. This has undermined the legitimacy of successive regimes and led to an erosion of the social contract, national cohesion and stability. The illegal funding of ZANU PF by some of the international capital networks during elections has also contributed to undemocratic elections. In particular, military elites have compromised democracy in Zimbabwe through their involvement in the ZEC and campaigns for ZANU PF, by orchestrating violence during elections and vetoing the election results in 2008 and 2018. Military elite involvement in battles for state power have also compromised the legitimacy of Mnangagwa. Factions within ZANU PF and the MDC consistently refuse to accept his authority because his power largely draws from the military rather than from the people.

\textit{Socio-economic regression}

The state within the state has contributed to the structural regression of the Zimbabwean economy since 2000. The enterprises run by the military have contributed little to the growth of the national economy. The army has little expertise in corporate governance and resources meant for national development ended up being confiscated by individuals or financing criminal activities. Industrial outputs continue to decline and investors shun the country, partly due to mistrust of the shadow state, which has the capacity to confiscate private property. GDP (gross domestic product) growth is expected to be in decline during 2019 and foreign currency shortages are set to continue. The state has also persistently failed to provide adequate social services to its citizens as the economy has

\footnotesize{\textsuperscript{192} C Kuyedzwa, ‘Zim maize production down 54%’, \textit{Fin24}, 20 June 2019.  
\textsuperscript{194} Ncube, ‘Command agriculture to continue’.  
\textsuperscript{195} Karombo, ‘The politics of petrol’.  
\textsuperscript{196} Karombo, ‘The politics of petrol’.  
\textsuperscript{197} K Dondolo, ‘Zimbabwe’s petrol price skyrockets—here’s what motorists are paying for fuel around the world’, \textit{Wheels 24}, 17 January 2019.  
\textsuperscript{198} Zimbabwe Energy Regulatory Authority, ‘Fuel price as of 05 October 2019, public notice, Harare: Zimbabwe Energy Regulatory Authority’, 5 October 2019.}
regressed. Nearly three-quarters (70.5 per cent) of the population continue to live on less than USD 1.90 a day, a percentage that is bound to increase due to the expected high inflation rates in 2019.\textsuperscript{199} Public health and education facilities are in dilapidated conditions. Citizens struggle to gain access to clean water, decent shelter, formal employment and electricity.\textsuperscript{200} For example, the country has experienced rolling power cuts on a daily basis, some of which have lasted for 18 hours, since mid-2019.\textsuperscript{201} To make this situation worse, a 320 per cent increase in the cost of electricity was announced by the national energy regulator in October 2019.\textsuperscript{202}

4. Conclusion and policy considerations

Since 2000, the army has increased its decision-making role throughout the whole of Zimbabwe. Outside formal procedures, military elites have broadened and deepened their power and influence over electoral politics, the mining sector, farmland, the fuel industry and the agriculture sector. The aim of this militarized shadow state is to ensure the continuity of ZANU PF as a governing party with actors who are compatible with their interests, protect their personal sources of wealth accumulation and contribute to broadening their political power and influence. These moves are disguised by the ideological persuasions of protecting national sovereignty.

The entrenchment of the military in numerous organs of state has had negative consequences for democratic politics and economic reconstruction. It is important to note, however, that the military do not operate entirely outside the central state as in collapsed or failed states. Nevertheless, the regression of the Zimbabwean state continues apace. This necessitates a comprehensive state-wide security reform programme before Zimbabwe degenerates into a perpetual political economy of conflict, inevitably leading to state failure and collapse.

The solution is a mix of carrots and sticks—positive and negative incentives—big and small actions, short and long-term plans, as well as overt and covert means to address this situation. Sticks alone will only cause the military and the military elites who benefit from the shadow state to dig deeper—even if it means sinking with the nation—and resist any efforts at democratization. Even if change were to happen through a general election, there would still be a present danger of the military reversing such democratic gains, given how fully entrenched it is in the polity.

\textit{National civilian pact}

Civilian democratic elites must set in motion a series of interventions with a specific military dimension. Civil society, the MDC Alliance and other political opposition parties, the ruling ZANU PF party, churches, labour unions, academia, students and business leaders must come together to craft an all-inclusive national civilian pact on the need for demilitarization of the polity and the reinstallation of democracy. A broader consensus among democratizing forces will not only expose the problem but also make it a national issue. If all the critical civilian movements build consensus on the subject, the military might be willing to engage as they become increasingly isolated.

To increase the cost of the military digging deeper, civilian democratizing elites in the Southern African region, including progressive movements such as the Congress of South African Trade Unions, must endorse the all-inclusive national pact in a show of people-to-people regional consensus. ZANU PF is likely to resist being part of the pact because it is the major beneficiary of the shadow state.

\textsuperscript{200} Zimbabwe National Statistics Agency, ‘Zimbabwe Poverty’.
\textsuperscript{201} Author observation, 1-30 June 2019.
\textsuperscript{202} M Dzirutwe, ‘Zimbabwe increases electricity by 320% amid daily power cuts’, \textit{BusinessDay}, 9 October 2019.
Nevertheless, it is important to note that consensus among ZANU PF elites has eroded significantly since the November 2017 coup and the party is now defined by inherent uncertainty and instability. Moreover, civilians in ZANU PF fear the recurrence of another military coup, as has happened in many other African countries.

While civilians in ZANU PF might not play a direct role, there might be soft-liners who will offer support behind the scenes. This increases the chances of an all-inclusive civilian national pact on demilitarization and the reinstallment of democracy in Zimbabwe. Such a national consensus ratified by regional actors would be an important step towards efforts to seek democratic control of the military. The democratizing forces in Zimbabwe should popularize the pact through peaceful and constitutional mass-based actions. A mass-based approach would either increase the financial cost of the use of military force or result in the military feeling under threat, prompting the use of live bullets on unarmed civilians, as on 1 August 2018 and 14 January 2019. Although the situation could go either way, peaceful mass action accompanied by a concrete offer for a civil–military pact might change the dynamics for the better.

**Civil–military pact**

The civilian democratizing forces in Zimbabwe need a negotiating platform with the military. Given the bad civilian–military relations in Zimbabwe, however, the military could refuse to participate in negotiations. Nevertheless, the chances of such an intervention succeeding could be improved by setting up a SADC reference group with international support that could act as a guarantor for the negotiated agreements. As a formal institution, SADC has no immediate interest to be actively involved in resolving the Zimbabwe crisis, even though regional stability is at stake if Zimbabwe becomes a failed state. Therefore, some eminent former political leaders with military and historical connections to the Zimbabwe military elite, such as Joachim Chissano, the former president of Mozambique, could be instrumental in constituting a reference group.

The SADC reference group could get support from retired international military personnel, possibly from the British Military Advisory and Training Team that trained ZDF military commanders from the 1980s until 2001. Russian and Chinese military chiefs, who are currently more trusted by the shadow state, might also be a possible source of support, although they are unlikely to be seen as impartial mediators by civilian democratizing forces in Zimbabwe. China and Russia are also interested in a stable economic environment in Zimbabwe to support their business investments. The primary mandate of this reference group would be to mediate between the civilian and the military. Part of the negotiations might include guarantees and protections of military interests, such as impunity for past human rights violations or protection for a minimal number of properties acquired by military elites but with a clear cut off date and realistic exit packages for the most compromised.

Concessions might ease out key military elites in the shadow state, allowing national democratic processes to take root as has happened elsewhere in militarized polities. Hard-liner civilian democratizing elites who are against actions that might be seen as promoting the culture of impunity might resist the route of guarantees. Concessions might speed up the democratization process, halt the contemporary trend towards total military consolidation and shorten the lifespan of militarized authoritarian rule, reduce the likelihood of another military coup, which might happen even if the opposition wins the general elections, and save the unrestrained plunder of national resources. Waiting for a clean break with the military through a revolution from below is more popular but unforeseeable in years to come. Therefore, a civil–military pact is a possible cure in a deeply militarized context in which democratizing elites are unarmed and advocate for change through civilian means.
The interventions mentioned so far will require meticulous planning and therefore are long term and complex. Meanwhile, the democratizing forces, government and parliament can leverage other practical and immediate steps.

**Demilitarization of state institutions**

The government must sanction an independent audit to investigate the extent of militarization in state institutions. Based on the audit results, the government must retire army officers with reasonable exit options. The government might be reluctant to do this on its own accord. With sustained pressure from civil society, however, there is a chance that this can be done. The incentive for government is to ensure efficiency of these state institutions in line with its intention to rebuild the economy. There is a precedent for undertaking such an audit; namely, the government-ordered audit of ghost workers, who were mainly ZANU PF militia. The civil service retired the ghost workers with reasonable exit packages. In addition, section 208 (4) of the Zimbabwe constitution prohibits members of the security services to be engaged or employed in civilian institutions. Civilian democratizing elites can use this as an advantage to ensure action by the elected government.

**Transparency and accountability**

The government must ensure that all businesses and individuals operate within the confines of the rule of law and allow relevant authorities to prosecute transgressors, holding them to account. This will require political will from government leaders. Corrective measures need to be taken in each sector discussed in this report to bring order, allow professionalism and enable economic growth. In the land sector, government must repossess idle land from multiple farm owners in line with its one person, one farm policy. The government must also withdraw the military from command agriculture and allow the ministry of agriculture, the private sector and other professional associations to play a central role in the revival of food production. The Sakunda Holdings monopoly of the fuel sector must end. It is imperative for the government to stop the protectionism of businesses linked to elements of the shadow state and allow competitive players in the fuel sector. There is also a need to revisit mining concessions to establish whether they are beneficiary to the Zimbabwe economy. From below, civil society actors must campaign for transparency in tender processes, open access to government contracts and demand that revenues from the extractive sector become public information.

**Diplomatic pressure**

Diplomatic pressure can help in reigning in the army. First, the African Union, United States, European Union and the United Kingdom can continue with public condemnation of military behaviour that is inconsistent with the constitution and in violation of human rights. Second, they can condition aid, financial rescue packages and investments from their countries on progress in relation to the democratic reforms that are made, such as compliance with the constitution and rule of law. International and regional agencies such as the International Monetary Fund, World Bank and African Development Bank can also condition their assistance to progress made in demilitarizing state institutions and enterprises.

At the same time, there is need to intensify democracy assistance programmes. International partners can increase funding and technical assistance to civil society, non-state actors and think tanks that work on security sector reform issues and democratic reforms at large. This would help to remove barriers to progress in reinstalling democracy. The international community can also isolate

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individuals in the shadow state who continue to violate human rights and flout rule of law. Such a move might erode the consensus for repression that is operative in the military.

South Africa is best placed to have more government-to-government, party-to-party and army-to-army engagements. This is because of long historic diplomatic, economic and military relations between the two countries. The Zimbabwe crisis is also linked to the South African national crisis. In 2019, South Africa donated ZAR 55 million (approximately USD 3.8 million) to the Zimbabwe government to reform the police in order to stop the deployment of the army to deal with civilian demonstrations. They can also pledge to assist programmes that would emerge from the civil–military pact, such as training and professionalization of the army.

At this historical juncture, however, Zimbabwe is not of geo-political interest to western countries grappling with the rise of populism and nationalism. South Africa and SADC have also retreated due to their own internal problems. It is, therefore, important for civil society in Zimbabwe, working with other actors in the region, to intensify its global evidence-based advocacy efforts to highlight the crisis and persuade the international community to support the processes of democratic change, such as happened during the Government of National Unity (2009–2013). Civil society must also extend its global advocacy to China and Russia, targeting not only these governments but also private entrepreneurs with financial interests in Zimbabwe. Both China and Russia are interested in stability, a salubrious climate for their investments and state capacity to repay their loans. What they seek requires that elements of the shadow state step aside.

**Compliance with the constitution and rule of law**

The executive, parliament, opposition parties and civil society (including independent media and investigative journalists) must ensure that the military operates in compliance with the constitution, the Defence Act of 1972 (with subsequent amendments), and other relevant laws. The executive must disband the JOC and operationalize the national security council as stipulated in section 209 of the constitution and in line with promoting civilian supremacy over military commanders. Parliament will also have to develop legislation in line with section 210 of the constitution, which provides for an effective and independent complaints mechanism to allow the public to complain about misconduct of the security forces and to seek remedy. In addition, parliament must have the oversight capacity to audit military expenditure and exert control over military budgets to avoid parallel activities.

Civil society can complement these actions through systematic monitoring and documentation of military compliance with the Defence Act of 1972 (with subsequent amendments), the constitution and other relevant laws. The monitoring must be broad enough to include military violations of human rights and fundamental freedoms, actors involved in political parties, actors involved in civilian institutions, actors involved in corruption, the deployment of members of the defence forces and tenure as commanders of the defence forces, who are not supposed to serve more than two terms of five years each. Court cases can also be launched against transgressors with support of human rights lawyers. Monitoring individuals will increase the cost for operating outside the law and erode the consensus for repression that currently dominates the security forces.

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204 Closed door diplomatic briefing with African National Congress officials, Cape Town, September 2019.
### Glossary of Acronyms, Words and Phrases

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AGRITEX</td>
<td>Agricultural Technical and Extension Services</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>CIO</td>
<td>Central Intelligence Organisation</td>
</tr>
<tr>
<td>COSLEG</td>
<td>joint venture between Congo Comiex and Operation Sovereign Legitimacy (OSLEG), a ZDF company</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
</tr>
<tr>
<td>ESAP</td>
<td>economic structural adjustment programme</td>
</tr>
<tr>
<td>G40</td>
<td>Generation 40</td>
</tr>
<tr>
<td>GNU</td>
<td>Government of National Unity</td>
</tr>
<tr>
<td>JOC</td>
<td>Joint Operations Command</td>
</tr>
<tr>
<td>MDC</td>
<td>Movement for Democratic Change</td>
</tr>
<tr>
<td>MOGS</td>
<td>Mining Oil &amp; Gas Services</td>
</tr>
<tr>
<td>OSLEG</td>
<td>Operation Sovereign Legitimacy</td>
</tr>
<tr>
<td>RBZ</td>
<td>Reserve Bank of Zimbabwe</td>
</tr>
<tr>
<td>RSF</td>
<td>Rhodesian Security Forces</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Committee</td>
</tr>
<tr>
<td>ZANLA</td>
<td>Zimbabwe African National Liberation Army</td>
</tr>
<tr>
<td>ZANU PF</td>
<td>Zimbabwe African National Union–Patriotic Front</td>
</tr>
<tr>
<td>ZAPU</td>
<td>Zimbabwe African People’s Union</td>
</tr>
<tr>
<td>ZCTU</td>
<td>Zimbabwe Congress of Trade Unions</td>
</tr>
<tr>
<td>ZDF</td>
<td>Zimbabwe Defence Forces</td>
</tr>
<tr>
<td>ZDI</td>
<td>Zimbabwe Defence Industry</td>
</tr>
<tr>
<td>ZEC</td>
<td>Zimbabwe Election Commission</td>
</tr>
<tr>
<td>ZIPRA</td>
<td>Zimbabwe People’s Revolutionary Army</td>
</tr>
<tr>
<td>ZNA</td>
<td>Zimbabwe National Army</td>
</tr>
<tr>
<td>ZPM</td>
<td>Zimbabwe’s People’s Militia</td>
</tr>
<tr>
<td>ZRP</td>
<td>Zimbabwe Republic Police</td>
</tr>
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</table>
Bibliography


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# Annex 5.1: A survey of beneficiaries of A2 farms in Chipinge

<table>
<thead>
<tr>
<th>Case number</th>
<th>Name of beneficiary</th>
<th>Occupation and social status</th>
<th>Farm(s) acquired</th>
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<tbody>
<tr>
<td>1</td>
<td>Bandama, E</td>
<td>Zimbabwe national army senior officer</td>
<td>Newcastle Lot 3:1</td>
</tr>
<tr>
<td>2</td>
<td>Chibaya, I</td>
<td>central intelligence officer</td>
<td>Clearwater Extension</td>
</tr>
<tr>
<td>3</td>
<td>Chiminya, J</td>
<td>central intelligence officer</td>
<td>Leliesvei Lot 2 of De Rust</td>
</tr>
<tr>
<td>4</td>
<td>Chinzou, P</td>
<td>Manicaland provincial lands officer</td>
<td>Newcastle Lot 8 and Laughing Waters Lot 2</td>
</tr>
<tr>
<td>5</td>
<td>Chitima, A</td>
<td>ZANU PF women’s league</td>
<td>Newcastle Lot 10</td>
</tr>
<tr>
<td>6</td>
<td>Dube, B</td>
<td>civil servant</td>
<td>Middle Sabi Lot 35 AB (Farm 31):4</td>
</tr>
<tr>
<td>7</td>
<td>Gata, G</td>
<td>related to President Mugabe and brother of Gata Sydney</td>
<td>Middle Sabi Lot 20 AB, Deelfontein and Farm 23 Middle Sabi</td>
</tr>
<tr>
<td>8</td>
<td>Gata, S</td>
<td>former Zimbabwe Electricity Supply Authority chief executive officer and married to President Mugabe’s sister</td>
<td>Rupisi Hot Springs 4, Rupisi Hot Springs 5, Middle Sabi Lot 45 AB and Middle Sabi Lot 68 AB</td>
</tr>
<tr>
<td>9</td>
<td>Gurai, M</td>
<td>chief education officer, Chipinge district</td>
<td>Wolvedraai A of Wolvedraai Lot 1</td>
</tr>
<tr>
<td>10</td>
<td>Kutamahufu, T</td>
<td>former deputy district administrator Chipinge; current district administrator for Mutasa district, Manicaland</td>
<td>De Rust of Avontuur, Newcastle Lot 4, Reitvlei Lot 1 of Kenilworth and Wolvehampton:15</td>
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<tr>
<td></td>
<td>Mabika, D</td>
<td>daughter of Chitima Alice, former ZANU PF MP for Chipinge</td>
<td>Chiriga and Newcastle Lot 1</td>
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<tr>
<td>11</td>
<td>Mabunda, N</td>
<td>Zimbabwe Republic Police, senior officer</td>
<td>Middle Sabi Lot 18AB (Farm 21)</td>
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<tr>
<td>12</td>
<td>Makota, J</td>
<td>Zimbabwe Republic Police, officer in charge, Chipinge rural</td>
<td>Morgenson and Newcastle Lot 4</td>
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<tr>
<td>13</td>
<td>Mapungwana, A</td>
<td>traditional leader (chief)</td>
<td>Gungunyana Lot 1</td>
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<tr>
<td>14</td>
<td>Mapungwana L</td>
<td>son of Chief Mapungwana</td>
<td>Chipinga Lot 1 and Newcastle Lot 5</td>
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<tr>
<td>15</td>
<td>Matuvhunye, N</td>
<td>serving colonel, Zimbabwe National Army</td>
<td>Avontuur</td>
</tr>
<tr>
<td></td>
<td>Name</td>
<td>Role</td>
<td>Location</td>
</tr>
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<td>---------------------------------------------</td>
</tr>
<tr>
<td>17</td>
<td>Mundeta, N</td>
<td>district administrator, Chipinge district</td>
<td>Preston Coffee Estate</td>
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<td>18</td>
<td>Mutema, P.S.J.</td>
<td>traditional leader (chief)</td>
<td>Middle Sabi Estate Lot 60AB (Farm 38); Middle Sabi Estate Lot 58 AB (Farm 36) and Middle Sabi Estate Lot 59 AB (Farm 39)</td>
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<td>19</td>
<td>Mutema, P</td>
<td>Chief Mutema’s nephew</td>
<td>Landsowne</td>
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<td>20</td>
<td>Mutizhe, F R</td>
<td>serving officer, Zimbabwe National Army (stationed at 3rd Brigade Headquarters in Mutare)</td>
<td>Vermont</td>
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<td>21</td>
<td>Muyambo, K</td>
<td>serving officer, Zimbabwe National Army (stationed at 3rd Brigade Headquarters in Mutare)</td>
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<td>22</td>
<td>Muzire, S</td>
<td>Zimbabwe National Army, lieutenant colonel</td>
<td>Woodstock and Wolfsarg Rem Extension 2</td>
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<td>23</td>
<td>Porusungazi, E</td>
<td>ZANU PF MP candidate for Chipinge south in 2000, 2005 and 2008 and youth league member</td>
<td>Farm 29 and Farm 40 Middle Sabi Estate</td>
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<td>24</td>
<td>Sakabuya, M</td>
<td>former deputy minister, ministry of local government</td>
<td>Newcastle Lot 9</td>
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<td>25</td>
<td>Shamido, S</td>
<td>chief immigration officer</td>
<td>Middle Sabi Estate Lot 43AB, Farm 32 (1) and (2)</td>
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**Source:** Chipinge department of lands and rural resettlement and interviews with key informants.
Annex 5.2. List of taxes collected over the history of gold mining in Kamituga

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<td>1. Anti-fraude (AFDL)</td>
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<td>1. Anti-fraude (FARDC)</td>
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<td>2. Anti-fraude (RCD)</td>
<td>2. ATM (mines)</td>
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<td>3. Loutriers (energy)</td>
<td>3. Balance (industry)</td>
<td>3. ATM (SAESSCAM)</td>
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<td>4. Loutriers (environment)</td>
<td>4. Déclaration d’ouverture (mines)</td>
<td>4. Balance (DGI)</td>
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<td>7. Echantillonnage</td>
<td>7. Carte de creuseur (SAESSCAM)</td>
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<td>8. Redevance coutumière (Chefferie)</td>
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<td>11. Motopompe (energy)</td>
<td>11. Entrée mines (FARDC/Police/Chefferie)</td>
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<td>12. Pollution (environment)</td>
<td>12. Fiche technique (mines)</td>
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<td>13. Ration (RCD)</td>
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<td>14. Ravitaillement militaire (RCD)</td>
<td>14. Formulaire demande/carte creuseur (mines)</td>
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<td>16. Tuyau (SAESSCAM)</td>
<td>15. Installation dans la rivière (PMH)</td>
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<td>18. Loutriers (mine)</td>
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<td>19. Motopompe (energy)</td>
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<td>20. Pollution (environment)</td>
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<td>Ravitaillement militaire (FARDC)</td>
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<td>Redevance coutumière (Chefferie)</td>
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<td>Rémunération (SAESSCAM)</td>
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<td>Tuyau (energy)</td>
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<td>Tuyau (energy)</td>
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*Source: field data, June 2019.*
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