

Testimony by Mark L. Schneider, Senior Vice President, International Crisis Group to the House Committee on Foreign Affairs, Subcommittee on Africa, Global Health, and Human Rights on “U.S. Policy Toward Zimbabwe”

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I want to express my appreciation to Chairman Smith and the House Committee on Foreign Affairs, Subcommittee on Africa, Global Health, and Human Rights for the opportunity to testify this morning on “U.S. Policy Toward Zimbabwe.” I want to commend the committee for focusing its attention at a crucial time for the people of Zimbabwe.

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Background: Zimbabwe, a landlocked country of some 12.5 million inhabitants, is caught in a decade-long political struggle to move from dictatorship to democracy. For 30 years, since independence in 1980, 87 year-old Robert Mugabe has ruled uninterruptedly. Starting in the early 1990s, however, the de facto one-party Zimbabwe African National Union – Patriotic Front (ZANU-PF) state implemented various measures to increase its grip on power, including a crack-down on civil liberties. The actions taken after a violently unfair election in 2008 brought the country to near collapse. Only massive diplomatic intervention by the Southern Africa Development Community (SADC) and the Africa Union (AU) secured the Global Political Agreement (GPA). Signed on 15 September 2008, the GPA was intended to help lay the foundations for normalizing political processes and by extension foster conditions for free and fair elections. It provided for a coalition government, formed in February 2009, between ZANU-PF

and the Movement for Democratic Change formations (MDC-T and MDC-M), but has failed to meet even minimal expectations for shared power.

Major reforms promised in the agreement have yet to be accomplished. Those reforms are critical before acceptable elections can be envisioned, now almost certainly not possible until late 2012 or 2013. ZANU-PF is now calling for elections by the end of March 2012, once the constitution-making process is finalised, with serious question about the country's readiness or the capacity of the Zimbabwe Election Commission (ZEC) to meet that unrealistic target.

The GPA has been treated as a 'ceasefire' document and as a framework for further negotiation, rather than as a formal agreement to be implemented. The primary GPA protagonists, ZANU-PF and MDC-T of Morgan Tsvangirai, have tried to utilise the agreement to further their competing objectives and frustrate their opponents. ZANU-PF has used it as an opportunity to regroup, consolidate and recapture political hegemony and, in absolute control of security forces, has used repression to further those objectives. The political opposition, dominated by MDC-T, has used GPA as an opportunity to promote policies and processes that would further weaken ZANU-PF's 30-year grip on power, but with a fundamental difference, an apparent readiness to respect pluralism and accept the outcome of democratic processes as a reflection of popular will.

The major hope was that the facilitators and co-guarantors of the GPA process and the final agreement, the Southern Africa Development Community (SADC), led by South Africa, and the African Union (AU) would forcefully monitor and expose violations of the GPA. Thus far, they have been unable to secure the reforms promised in the document. Last March SADC's Organ for Politics, Defense and Security issued its first strong public communiqué on lack of progress with respect to GPA implementation. President Jacob Zuma of South Africa is the current SADC named facilitator to secure GPA progress.

Current Challenges: There are three major obstacles to the movement toward implementation of the GPA, completion of constitutional reform and free and fair general election. They form key guideposts of what is still a draft roadmap to elections promoted by SADC and tentatively agreed by the party negotiators in July. In fact, the *sin qua non* for progress is the completion and approval of that roadmap by Zimbabwe's political party leaders.

a. State Sponsored Violence

State security forces, working with proxy and surrogates (i.e. war veterans, youth militia) were primarily responsible for the campaign of terror and intimidation between April and June 2008 that resulted in an estimated 300 deaths and more than 15,000 human rights abuses and other attacks. The ZANU-PF's informal militia infrastructure has not been held accountable for violations, despite an explicit commitment in the GPA to do so (Article XVIII) and has not been dismantled. MDC and civil society groups see those security forces as continuing to pose a threat across the country, especially during a critical election. ZANU-PF categorically denies responsibility for state sponsored violence and accuse the MDC and civil society groups of utilising this issue as an integral part of their regime change agenda. It has also launched a counter offensive to portray the MDC as a violent political party.

These contradictory narratives underscore the importance of having an impartial and trustworthy mechanism to investigate allegations of violence and actions undermining the GPA.

With limited options, the Joint Monitoring and Implementation Committee (JOMIC) set up under the GPA appears to be the preferred mechanism for investigating allegations of violations. However,

deployments promised by SADC to staff JOMIC have failed to materialize. Similarly the national Human Rights Commission, established in 2009, would be an independent mechanism for investigating violations. However, it has no legal mandate, operational budget, staff or resources.

There have also been ongoing incidents of human rights abuses, public violence and systemic impunity, perpetrated by Zimbabwe security forces and militia directed by ZANU-PF adherents. In June, an explosive device detonated outside the home of MDC-T Finance Minister Tendai Biti. In July, ZANU-PF supporters invaded the parliament. Last month, Harare township based pro-ZANU-PF Chipangano militia are believed to be responsible for an attack on the MDC-T headquarters Harvest House and for an assault on MDC-Youth wing organizing secretary. This is compounded by ongoing selective application of the law, including the arrest of MDC activists parliamentarian and cabinet ministers on bogus charges.

- March - MDC-T Minister of Energy Elteon Mangoma, who also is an MDC-T negotiator and member of the JOMIC was arrested twice.
- April – MDC-M’s co-minister for national healing Moses Nzila Ndloyu, was detained for addressing an ‘illegal’ memorial service.
- June - Jameson Timba, MDC-T Minister in the Prime Minister’s office was arrest for insulting President Mugabe.
- July - MDC-N party president Welshman Ncube was detained by police.
- August - MDC-T minister James Timba was arrested again.

b. Security Sector Reform (SSR)

The provisions for SSR in the GPA are relatively weak and have yet to produce significant shift in the one party domination of security forces. Despite the creation of a National Security Council, it is dysfunctional and there is no policy to underwrite effective civilian oversight of security and intelligence forces. As a result, control of the security forces remains centralised in the hands of the presidency and ZANU-PF controlled ministries. ZANU-PF have argued that the security issue is ‘off limits’ and has instructed its negotiators to not engage on this issue.

Divisions in and uncertainty about who will succeed 87 year old President Robert Mugabe have been compounded by the death – under highly questionable circumstances – in mid August of prominent ZANU-PF politburo member and former commander of the Zimbabwe Defence Forces, Solomon Mujuru. Mujuru, husband of Vice President Joice Mujuru, had been seen by security sector voices as too willing to compromise with MDC on key issues. Mugabe’s health is impossible to determine. The last week of October he reportedly made his second visit in the month to doctors in Singapore, the eighth visit this year. After 30 years in power, his capacity to govern is inevitably waning. That fact alone makes internal ZANU-PF politics and, by extension, the country fluid and increasingly volatile.

The central concern of the MDC formations and large sectors of civil society remains that the security sector officers in collaboration with ZANU-PF proxy agents, will undermine democratic elections. Even if the MDC win, they are profoundly worried that those forces would prevent a transfer of power.

c. Composition of the Zimbabwe Electoral Commission’s Secretariat

Having secured a more representative grouping of ZEC commissioners, the MDC has raised concerns about the composition of the ZEC’s secretariat, which remains fundamentally unreformed. This is the same secretariat that presided over the disputed 2008 election processes which they declared to be free and fair, despite palpable evidence to the contrary. According to the MDC, the secretariat includes

security sector personnel and other ZANU-PF loyalists. ZANU-PF has refused to consider altering the secretariat composition. If there is a single vital key to building confidence in the roadmap toward elections, it is a more balanced and professional secretariat, ideally one bolstered by SADC experts and monitors. Beyond that issue there is substantial question with respect to the accuracy of the voter rolls and an independent audit of that registration list is needed.

As of late October 2011, these areas of disagreement have not been resolved by the negotiators, and have been exacerbated by mutually recriminating public narratives and an absence of the forceful SADC presence in support of the JOMIC monitoring mechanisms promised in the March communiqué.

There have been some modest examples of cooperation and progress, as illustrated by the much-delayed constitution-making process which has reportedly produced a draft document although no agreement yet has been achieved on when its content will be made known nationally, how to assure adequate public debate over its provisions, and how and when a credible referendum can be conducted for its approval.

Also some basic services have been re-established and the overall economic situation in the country has improved. Nevertheless, Zimbabwe has dropped to the lowest ranking of 169 countries in UNDP's Human Development index, showing an average annual decline in income per capita, health and education rankings and most Zimbabweans live below the poverty line. The current situation does not provide a foundation for sustainable economic recovery and employment, attract adequate investment, or offer options for a return of a massive diaspora. The recent lifting of South Africa's moratorium on deportation of undocumented Zimbabweans during October is likely to exacerbate social and economic pressures.

The formal establishment of new or reconstituted democracy supporting institutions, such as the Anti Corruption and Human Right Commissions (HRC) is positive but they have yet to move beyond appointment of commissioners to become operational. The newly constituted multi-party composition of the Zimbabwe Electoral Commission and Media Commission are steps forward but both limited capacity. Media reform has resulted in the licensing of several new newspapers and improved access for foreign media agencies. State broadcasting, where most Zimbabweans access their news, remains clearly partisan in favour of ZANU-PF, who in turn point to the continued presence of 'pirate' radio stations as an implicit justification for not expediting licensing of new radio and television outlets. The promise of two new licences for radio stations has not been met and will be determined by individuals who have a dubious track record when it comes to media freedom. Last month, the Prime Minister told Parliament that the Broadcasting Authority of Zimbabwe, which presides over the licensing process, would be reconstituted. When and by whom remain unclear.

An unfortunate pattern has emerged whereby agreement is reached around specific reforms between respective ZANU-PF and the MDC negotiation teams under the auspices of the SADC facilitators, but subsequent implementation of these agreements is thwarted. This has frustrated the reform process and SADC members, who are co-guarantors of the GPA with the African Union. In 2011, SADC has becoming increasingly critical of the failure to implement reforms, particularly those aimed at creating the conditions for free and fair elections. SADC's frustrations reflect concerns that have been repeatedly highlighted by the MDCs and civil society.

There is little doubt that the GPA has been repeatedly violated. Monitoring and anecdotal evidence supports the assertion that ZANU-PF and its proxies are primarily responsible. However, the GPA's own internal monitoring review processes (i.e. the Joint Monitoring and Implementation Committee – JOMIC) and the Periodic Review Mechanism have not been in a position to publicly confirm or deny such

assertions. The situation is also coloured by a residue of mistrust and concern amongst some SADC members about the MDC's capacity and competency and lingering loyalties to the ZANU-PF project. The inability of MDC-T to reach common positions with MDC-N (now the party faction led by Welshman Ncube) has added to those concerns, not to mention the pending challenge to Ncube by that faction's former leader Arthur Mutambara.

But at this stage, one must ask what will and can be realistically achieved in terms of the core concerns now outlined in the roadmap, if violation and resistance continue. The situation is also coloured by a residue of mistrust and concern amongst some SADC members about the MDC's capacity and competency and lingering loyalties to the ZANU-PF project.

There needs to be a more sustained call from political and social formations both inside Zimbabwe and the diaspora, as well as by key external actors, including South Africa, SADC members, the USA and the European Union (EU), for a more inclusive process that goes beyond the three political parties to insure participation by civil society in the key issues remaining on the roadmap to fair and free elections sometime over the next year and a half.

Constitution

A 25-member Select Committee of Parliament on the Constitution (COPAC), co-chaired by ZANU-PF, and MDC-T and MDC-N representatives, was established in April 2009 to drive the process. A management committee comprising the GPA negotiators (the three political parties), the three co-chairs of the Select Committee and the constitutional and parliamentary affairs minister (Eric Matinenga, MDC-T) was created to provide policy direction and oversight. A steering committee composed of the three co-chairs of the Select Committee, their three deputies and two representatives from civil society is responsible for overseeing implementation of management committee decisions. Although the constitutional and parliamentary affairs ministry is the agreed focal point for the exercise, the management committee is in practice the pivotal institutional body.

The COPAC process, despite its imperfections, needs to complete a final draft document, carry out needed consultations (and party political negotiations) and plan for a referendum itself. The political parties state their commitment to this process, which is linked directly to the major challenges to the elections roadmap.

Even once COPAC produces the draft Constitution, it still must be go before an all-stakeholders conference, approval by the Parliament before being sent for popular vote in a referendum. ZANU-PF has argued in the past that elections could take place even before the Constitution is adopted, a view rejected by MDC parties and by SADC. Recently when the negotiating teams tentatively signed off on the roadmap to elections, it was hoped that it meant that all parties accepted the need for completion of the constitutional reform process as a precondition to elections. However, there still are unresolved issues in the roadmap and the party leaders have yet to sign off.

Monitoring the Roadmap

Significantly, SADC countries are no longer treating Zimbabwe's crisis as an essentially internal one, and increasingly recognise the crisis impacts on regional human security, in particular South Africa. SADC's facilitation process under South Africa's President Jacob Zuma, has become more resolute, since the March 2011 meeting of SADC's Organ Troika on politics, defense and security at Livingstone, Zambia. At Livingstone, the Zimbabwean delegations were rebuked for the slow pace of reform. SADC demanded

the parties “find an uninterrupted path to free and fair elections and the removal of all impediments to the same”. This has led to the development of a draft election roadmap that addresses the most important outstanding concerns relating to the GPA, especially in relation to election conditions. Yet even that draft leaves key issues in the air. SADC also agreed to deploy representatives to improve liaison between the JOMIC and SADC facilitation team, with the intention of improving insights into monitoring and implementation aspects of the Agreement.

ZANU-PF reacted negatively to the Livingstone communiqué, which it correctly perceived as a significant change in emphasis by SADC. The MDC groupings, conversely, support SADC’s more robust engagement, but remain frustrated that their rhetorical commitment has yet to translate into tangible progress on the ground. Regional leaders also grouse that the MDC has not done enough to engage with them. Six months later, SADC’s proposed deployments to JOMIC have not happened, although some groundwork for this has been undertaken and plans include expanding JOMIC at a provincial level—but the critical final accord on the roadmap has yet to occur. A promised meeting in October between President Zuma and the Zimbabwe principals also did not materialise.

Despite the change in direction, there are concerns about the commitment of SADC’s 15 members to fully stand behind the March communiqué, leaving South Africa, its facilitator, to do the hard work. At one level, this must be so, as President Zuma is the facilitator, currently serves as chairman of the SADC troika on politics, defense and security with Zambia and Tanzania, and is the critical regional actor. But at another level, President Zuma’s ability to succeed in the role of facilitator requires a strong regional consensus and the fulfilment of pledges, such as deploying experts to bolster JOMIC capabilities and also to give SADC more eyes and ears on the ground. Without vigorous accompaniment monitoring and support to the roadmap internal reforms there is a real danger that elections could again be violent and the outcome even more destabilizing.

U.S. Policy: The U.S. should consider:

- Increasing support for South Africa and SADC to press Zimbabwe parties to complete the roadmap as the highest priority and strengthen JOMIC and a robust monitoring and observation presence for SADC and AU in pressing implementation of that roadmap.
- Supporting efforts, through SADC, to strengthen the capacity of the Zimbabwe Electoral Commission, standing behind SADC in its efforts to secure a more professional and balanced ZEC secretariat. One way would be to support enhanced interaction with credible regional electoral commissions through the recently constituted SADC’s Electoral Advisory Council.
- Providing, in the future, support for SADC deployment of election monitors into rural areas, perhaps through the SADC Parliamentary Forum and AU peace and Security Council.
- Supporting SADC efforts to promote security sector reform emphasizing the need for a commitment of non interference in the next election process by security forces and respect for the outcome of those elections.
- Supporting development of other institutions called for in the GPA, including the Human Rights Commission, Anti Corruption Commission and Zimbabwe Media Commission.
- Consult with SADC on how and whether a calibrated suspension of sanctions in response to actual reforms could provide SADC and its facilitation team with additional political leverage in terms of achieving key reforms that are vital to permit more a more credible electoral process.

Conclusion

The U.S. has undertaken its policy decisions in Zimbabwe with the intent of promoting democratic change. At this stage in an enormously complex and frustrating process, diplomacy and assistance should be conducted in close coordination with South Africa and SADC and the AU to promote the Zimbabwe reform agenda. A pragmatic approach that supports implementation of the GPA and continued interaction and convergence of the political parties, as well as civil society and state institutions may well be the most effective way for the United States to act to prevent future civil conflict in Zimbabwe. In the most optimistic reading, that approach may help that nation find a path toward a more stable and just future.