



Testimony by Mark L. Schneider, Senior Vice President, International Crisis Group, to the U.S. Senate Foreign Relations Committee Hearing “Examining Prospects for Democratic Reform and Economic Recovery in Zimbabwe”

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I would like to express my appreciation to the Chairman Senator Christopher Coons, Ranking member Senator Jeff Flake, and members of the Africa Subcommittee of the Senate Foreign Relations Committee for the opportunity to testify this morning and for focusing attention on a looming electoral crisis in Zimbabwe.

Crisis Group is an independent, non-partisan, non-governmental organization that provides field-based analysis, policy advice and recommendations to governments, the United Nations, the European Union and other multilateral organizations on the prevention and resolution of deadly conflict. Crisis Group was founded in 1995 by distinguished diplomats, statesmen and opinion leaders including Career Ambassador Mort Abramowitz, Nobel Prize winner and former Finnish president Martti Ahtisaari, late Congressman Stephen Solarz, and former UN and British diplomat Mark Malloch-Brown.

Ambassador Thomas Pickering is our current chairman. Louise Arbour, former chief prosecutor at the International Criminal Tribunals for Rwanda and for the former Yugoslavia, and former UN High Commissioner for Human Rights, is our current president. In 2011, Crisis Group was awarded the Eisenhower Medal for Leadership and Service.

Crisis Group publishes some 80 reports and briefing papers annually, as well as a monthly CrisisWatch bulletin. Our staff is located on the ground in ten regional offices, and sixteen other locations, covering between them over 60 countries and focused on conflict prevention and post-conflict peacebuilding. We maintain advocacy and research offices in Brussels (our global headquarters), Washington and New York. We have liaison offices in London, Beijing and Moscow.

Crisis Group’s Johannesburg-based Southern Africa project has for some time been focused on the dismal state of governance, deterioration in human rights, and worsening economic and political conditions in Zimbabwe. In March 2008, we published a pre-electoral report entitled “*Prospects from a Flawed Election*”. Hopefully a similar unhappy result will not reoccur.

Since the 2008 crisis, we have published nine reports on the post-electoral process in Zimbabwe, analyzing the negotiations, the Global Political Agreement (GPA) and the Southern Africa Development Community’s (SADC) role in helping the country chart a reform roadmap to elections and a democratic transition. As the coalition government and transition parliament’s

terms come to an end under the GPA on 29 June, instead of consensus and compromise, we see confrontation and conflict.

For the first time since that coalition government was formed, President Robert Mugabe issued a presidential decree last Thursday that short-circuits the democratic process, by-passing the still functioning Parliament, cutting short voter registration, overriding constitutional provisions on time-lines for candidate nominations and posing obstacles to critical reforms that are essential not only to achieve fair and free elections but to achieve peaceful, credible and transparent elections. The playing field--as we concluded in our 6 May report *Zimbabwe: Election Scenarios* and our analysts reaffirmed recently in Harare—is far from level.

Over the weekend, SADC heads of state met as the oversight and monitoring authority of compliance with the GPA and received a report from its current facilitator, South African President Jacob Zuma. The report underscored the GPA commitment that “elections shall be held under conditions where all parties shall participate freely, on equal footing, in an environment free of intimidation and violence; and that this is necessary in order to bring into being the next government which shall enjoy undisputed credibility”.

We strongly agree with those views.

President Zuma reported on actions related to the pending harmonised elections with a clearly critical message that resulted in SADC issuing warnings to Zimbabwe regarding compliance with the previously negotiated GPA electoral roadmap. SADC essentially called for important reforms to be in place before elections are held and also urged the government to request the Constitutional Court to delay its call for elections prior to 31 July to permit compliance with current constitutional electoral provisions and enable key reforms to be adopted. The 31 July date, the Zuma report stated “is fraught with legal contestation, political dispute and heightened tensions....”

Among the reforms discussed in President Zuma’s report which were endorsed in the SADC communiqué were the following, many of which touch on concerns that we also have raised:

- Media reforms;
- The rule of law (which explicitly refers to security concerns regarding military and intelligence interference in the elections which would be in violation of Section 208 of the new Constitution);
- The role of the Joint Monitoring and Implementation Committee (JOMIC);
- Electoral date, Validity of Electoral Regulations; and
- Deployment of SADC elections observers.

We remain hopeful that SADC will continue to insist on those reforms and convince not only President Mugabe but all parties to step back from a political abyss that threatens internal violence, regional instability and a needless return to international isolation.

The shortest possible response to “What should the United States Government do at this critical moment?” Mr. Chairman, is simply this: Support SADC in all possible ways to insist that the minimal “red lines” be adhered to for a credible presidential, parliamentary and local election.

SADC will hopefully quickly open an office in Harare and establish a nationwide monitoring apparatus covering electoral infrastructure, electoral security and electoral participation. Where those basic reforms are agreed, the U.S. can offer whatever technical, financial and other assistance that might be needed. In addition, the U.S. should reiterate its readiness to cooperate with a new government if chosen in an election that is judged by all sides in Zimbabwe and SADC to be transparent, peaceful and credible.

Where we stand: The clock is running now on what may be six weeks until a hastily called election in a country that suffered widespread, brutal national violence during and following its last flawed and discredited election in 2008.

In the wake of the 31 May court ruling that elections must be held before 31 July, the focus inside and outside Zimbabwe is whether there is any way to avoid a repeat of the undemocratic and violent 2008 elections. We believe that there still are options that include a pragmatic political consensus on delaying for several months—but not later than 29 October--the actual date, and getting court concurrence. President Mugabe’s disputed decree setting 31 July as the election date also would have to be modified. However, additional time is clearly needed to permit the implementation of basic reforms to avoid a repeat of the 2008 disaster. His subsequent executive order making a series of amendments to electoral law that shorten registration, nomination and campaign periods also has drawn opposition charges of unconstitutionality.

The new constitution provides that the current 30-day voter registration period be completed, a process that would take to 9 July. It also provides that the Nomination Court sit for 14 days thereafter for candidates to register and be accepted and then allows for a minimum of 30 days campaigning, which cannot feasibly occur by 31 July.

At this stage, there is:

- no agreed and final registration roll,
- no electoral law approved by Parliament,
- no candidates formally nominated or approved for president or for 358 seats in Parliament,
- no time for a campaign after candidates are named,
- little time for ballots to be printed,
- less time for ballots to be distributed to 9,449 polling stations,
- no testing of electronic tabulation processes,
- no agreement for domestic electoral monitoring,
- no authorization for international electoral monitoring, and
- no transparent indication of how the election will be funded.

Behind the procedural and legal issues, there are critical unresolved political issues that complicate the current election that Crisis Group outlined in its last report: Within the Zimbabwe

African National Union-Patriotic Front (ZANU-PF), “hardliner” and “reformist” camps are fighting over who will succeed 89-year-old President Robert Mugabe in the future. The opposition, the Movement for Democratic Change (MDC-T) led by Prime Minister Morgan Tsvangirai is struggling with infighting and limited capacity to mobilise its supporters, let alone to find avenues for electoral cooperation with the other MDC faction, which itself is divided. Some officers high in the security and intelligence forces seem unwilling to contemplate a possible opposition win and their rhetoric and increased deployment in swing provinces constitute intimidation.

The way forward also requires a clear understanding of the unfulfilled elements within the GPA that would help lay foundations for normalizing political processes and, by extension, foster conditions for free and fair elections. Unfortunately, the GPA was treated as a ‘ceasefire’ document and as a framework for further negotiation, rather than as a formal agreement to be implemented. Despite a new constitution, this central drawback remains largely unchanged as resistance to reform continues to characterise the country’s uneven power-sharing arrangement. The two uneasy party partners in that coalition government are President Robert Mugabe and ZANU-PF; and the wings of the Movement for Democratic Change, the MDC-T of Prime Minister Tsvangirai and the remaining MDC faction. An election roadmap was drawn up in July 2011, but key areas of disagreement relating to elections, the media, security environment and institutional partisanship have not been adequately addressed.

There are also profound concerns that an election outcome that results in ZANU-PF losing power will not be respected by powerful elements in the security forces. Many military and intelligence officers articulate partisan political preferences under the guise of defending the gains of Zimbabwe’s national democratic revolution. They even have described the MDC partners in government, particularly MDC-T and its leader Morgan Tsvangirai, as national (and regional) security threats. Such dangerous rhetoric has yet to be countermanded by President Mugabe, the commander-in-chief of the country’s defense force.

There have been some reforms put in place, highlighted by the adoption of a new constitution endorsed by over 95% of Zimbabweans who participated in the 16 March referendum. The replacement of the much criticized independence / Lancaster House constitution has both substantive and symbolic value. It was critical in the GPA and pressed by the Southern Africa Development Community (SADC), which monitors the GPA. However, its passage has had virtually no immediate or direct impact yet on achieving ‘free and fair’ conditions for the elections.

An overview of key reform concerns and what may be possible in a restricted timeframe to help build towards a credible election process and outcome remains pertinent.

Three major goals called for under the GPA have yet to be achieved:

- (i) An end to state sponsored violence
- (ii) Security sector reform
- (iii) Formation of adequately funded, credible, independent electoral authorities.

With respect to these goals, key reforms promised in the draft election roadmap that was signed in July 2011 by all GPA participants have been blocked. With respect to the integrity of the electoral process, the key reforms are aimed at:

- (i) Access to information,
- (ii) Freedom to participate, and
- (iii) Safety and security

All require urgent attention;

1. Access to Information

Media and the state broadcaster

The media environment remains distorted and partisan. The State broadcaster (TV and especially radio) remains the primary source of information for most Zimbabweans. Largely hostile to MDC formations (especially MDC-T), it is unashamedly partisan to ZANU-PF. The new commercial FM radio stations Star FM and Zi-FM have provided limited alternative voices but even here their ownership underscores a ZANU-PF bias.

ZANU-PF continues to point to ‘pirate radio stations’ and ‘independent’ print media as evidence of ‘balance’ and progress towards a ‘free media’. External radio and local independent newspapers, however, have a very limited footprint compared to the state broadcaster. Consequently the media environment is severely prejudiced against parties other than ZANU-PF.

The Minister of Information and Publicity should urgently instruct state media (both electronic and print media) to: ensure balanced and objective reporting, provide reasonably equal access; desist from publishing and broadcasting hate speech; accept paid advertisements from all political parties and also provide priority access to the Zimbabwe Electoral Commission (ZEC) for public service voter education announcements. Instructions should be public to rebuild public confidence in State media and foster citizen accountability for media freedom.

Longer term concerns regarding regulation and partisan governance of the media, including amending restrictive provisions of the Access to Information and Protection of Privacy Act (AIPPA) and Public Order and Security Act (POSA), were to be part of the reform agenda and at least must be addressed in the post-election environment, and commitment to address these concerns should be secured by all parties.

Extension of Voter Education: The ZEC must accredit more civil society organisations to undertake voter education about new election rules, regulations and procedures, including how to access the voters roll, how to check for accuracy and where to file complaints. The ZEC should proactively enable civil society organisations, including faith based networks to disseminate information about the forthcoming elections, processes and institutions. The ZEC should also direct the Zimbabwe Republic Police (ZRP) to stop interfering with civil society groups who disseminate information about elections and election processes. Continued harassment of those involved in voter education effectively criminalizes the exercise of basic democratic rights,

undermines public trust in election and consolidates concerns that the ZRP is pursuing a partisan political agenda.

2. Freedom to participate

Citizen verification of voter registration and an audit of voters roll: No voters roll is perfect, but in Zimbabwe there have been widespread and well-founded concerns that the roll has been used as a tool to manipulate participation and exclusion. According to the ZEC in April, the Registrar General had registered 60,000 new voters and removed 345,000 deceased persons since December 2012. Yet there are continuing concerns of over and under registration that only credible auditing of the rolls can remedy. Since the April-May 21-day registration process, another 200,000 voters were reported added yielding an estimated but highly questionable total of 5.87 million. Political parties sharply criticised the differing standards, hours, resources available to register voters in different constituencies and a seeming surfeit of opportunities in ZANU-PF areas and far fewer in areas seen as favoring MDC. A new 30 day voter registration drive that started on Monday 10th June must address the shortfalls and anomalies identified in the May process. Anecdotal feedback during the first week suggests, however, that many problems remain.

The current final registration process which should last for 30 days now is being cut short by presidential order to 17 days. Assuring that a final roll including all eligible voters is prepared and available is not a simple task—and with voters able to vote in any ward in their electoral district the potential for fraud rises considerably.

The integrity of the voters roll would be vastly enhanced by a full ZEC supervised audit of the existing roll. This could be done in a short time frame and resources with resources already available through external EU funders. If SADC requested additional funding to support an independent audit, we would urge the U.S. to support such an effort.

Beyond the parties, the public should be provided with a reasonable time and opportunity to check the voter roll and effective methods to correct all flaws, particularly those that exclude citizens from voting.

Utilisation of social media: The ZEC and Registrar General must improve from their performances during the May registration drive when neither advertised any details on their respective websites. They need to take advantage of social media and the internet to communicate the location of mobile voter registration stations, their hours and days of operation, registration procedures, required documentation, appeal mechanisms and their right to be registered should they meet all pre-requisites.

The integrity of the voting process itself must include particular attention to the early / special voting process for elections, estimated to be some 100,000, to ensure concerns about multiple voting are minimised and if possible totally eradicated.

Reporting Election Results: It seems unlikely that ZEC will have the necessary technical infrastructure in place to ensure electronic reconciliation of voters roll for early voters or even on

election day. In addition the ZEC does not have equipment for transmission of polling station results which will mean a reliance on Zimbabwe Republic Police communication equipment. At the very least, public details on the processes that will be followed should be made available to avoid as far as possible misapprehensions and distrust. The full tabulation and reporting process should be monitored by SADC observers.

Political campaigning: Conditions must be ensured for the promotion of free political activity across the country. Each party must actively promote political tolerance and be seen to be doing so. There should be widespread dissemination of the political parties' code of conduct (during elections) by the parties themselves, but also through civil society and democracy supporting institutions. A remedial infrastructure to address any violations must be functioning and accessible.

Party Code of Conduct: Given the existing polarization, and taking into account the 2008 election dispute, all parties, especially those in the GPA, must consent and sign a code of conduct, with SADC as witness. The code should be widely disseminated and commit parties to promote political tolerance, reject any use of violence by their members (with threat of expulsion from the party for any who engage in those acts), and agree to settle any election outcome dispute through the formal channels ultimately outlined in the Electoral Act. Its compliance should be monitored by ZEC, the Zimbabwe Human Rights Commission and if passed and functioning, the "Special Investigation Committee" provided for in the draft Electoral Act, as well as by SADC.

Developing early warning and rapid response capacities: Zimbabwean parties should put in place early warning and rapid response mechanisms to deal with issues of violence and intimidation as a matter of urgency. A reconfiguration of the existing Joint Monitoring and Implementation Committee (JOMIC) structure presents the most realistic institutional option, but again requires political will and SADC support.

Strengthening monitoring and observation: An early SADC observation and monitoring mechanism must be put in place in compliance with the recommendations of the Democracy and Electoral Assistance Unit (DEAU) of the African Union, which in 2012 noted the need for African elections to transform towards long-term observation. Ideally, SADC observers and monitors must be in place at least 60 days before elections; now, they should be urgently deployed. Funding to underwrite a meaningful monitoring and observer footprint should be assured, and in addition to EU funding support to SADC, the U.S. should be prepared to respond urgently to any requests.

In addition, observers should be drawn from a range of other countries. ZANU-PF's control over the Foreign Ministry already has seen rejection of proposals from countries which have current sanctions on Zimbabwe, such as the U.S. Hopefully that will change. But there are other countries with good democratic credentials who should be encouraged to apply.

3. Safety and security

Issues of political violence and allegations of partisanship within Zimbabwe's security services have been effectively side-stepped during the life of the GPA. Although wide-scale political violence has remained at a low level, it is worth remembering that the situation in February and March 2008 was also peaceful. Understanding how violence manifests in Zimbabwe requires a more sophisticated analysis of its characteristics and the infrastructure that services it. Despite mitigating interventions to promote reconciliation and conflict resolution in many communities across Zimbabwe, the infrastructure of repression remains largely in place. The 'politics of fear' continues to harvest on the legacy of abuse, institutional bias and systemic impunity. Even over recent months, there have been serious instances of harassment and intimidation against civil society activists and opposition political leaders particularly in rural communities. The absence of a visible deterrent or effective remedy to further abuse is a significant factor in the current environment.

Equally worrisome has been a recent expansion of deployment of the Zimbabwe National Army, which we detailed in our May report, for what appear to be worthy public purposes such as food distribution, disaster response preparation and a so-called army history of independence. The concentration of those deployments in political swing provinces such as Manicaland and Masvingo raises concerns.

Security sector reform has been deadlocked by ZANU-PF opposition, despite calls for 'security sector realignment' from SADC. There is substantial fear that security forces could take actions to undermine the campaigns and serious concern that they will not remain neutral as election results are being tabulated. The continued push for a credible and transparent election process by domestic and regional civil society and political figures, requires a diplomatic strategy to address these electoral and post-electoral security sector concerns.

The legacy of mistrust – the centrality of the Zimbabwe Republic Police: Zimbabwe has a long history of election related violence and intimidation. This history is compounded by systemic levels of impunity. Consequently, many ZRP perpetrators continue to live within the same communities where abuses occurred. While the police are only identified as perpetrators in a minority of cases, there are widespread allegations that they failed to protect citizens under attack or to adequately investigate political violence. It should be noted that the vast majority of people subject to politically related abuse between 2008 and 2012 have not reported these matters to the police. Details on over 12000 cases covering this period were submitted in September 2012 to JOMIC facilitation team. In over 90 per cent of these cases, the matter was not reported to the police by the victims. The police hierarchy has compounded concerns by demonstrating clear political partisanship in favour of ZANU-PF. Evidence in this regard is incontrovertible.

As with other aspects of Security Sector Reform, concerns about the police require a long term strategy. There are, however, critical actions in the short term that can be taken to enhance the election environment and raise general levels of confidence.

- Deployment of SADC police officers as an "African solution to an African problem" to work with their ZRP counterparts prior to, during and after elections. Rules of

engagement for fellow SADC officers can ensure there is no untoward interference, but they must be mandated to report to SADC monitoring and observation structures.

- Detail should also be provided of ZRP command structures, including names and contact details of commanders and their respective geographical responsibilities under the electoral security plan.
- A security sector code of conduct should be in place before the elections, coupled with a public commitment made to this code by the security force chiefs and all rank and file members. This would be greatly enhanced if it was done in response to an order from the President, as current Commander in Chief. In addition, and in light of ongoing concerns about the partisan role of the military, they, along with the Central Intelligence Organisation (CIO) should be confined to barracks during the campaigning period as a sign of goodwill and an investment in building confidence amongst the general population.

Conclusion

The uncontested constitutional referendum in March enabled Zimbabweans to participate in a voting process without fear of retribution. The pending parliamentary and presidential balloting is another matter. SADC remains the point vehicle for pressing for conditions on the ground to allow for credible elections and a process with integrity, including adequate domestic and international monitoring of all aspects of the process. The U.S. should support those efforts.