

Ending Zimbabwe's Nightmare: A Possible Way Forward

I. OVERVIEW

The inter-party negotiations that have sought to end Zimbabwe's political, economic and now full-blown humanitarian crisis following the fraudulent June 2008 presidential election run-off are hopelessly deadlocked. Robert Mugabe and his ZANU-PF will not accept genuine power sharing, and Morgan Tsvangirai and his Movement for Democratic Change (MDC) are unwilling to join a ZANU-PF dominated administration as a junior partner, responsible for ending international isolation but without authority to implement needed reforms and emergency humanitarian relief.

No new power-sharing formula premised on Mugabe remaining president and Tsvangirai becoming prime minister seems likely to produce a workable outcome. Nor does it seem realistic to contemplate any non-negotiated solution to the deadlock. Additional sanctions and other forms of external pressure could be applied but seem unlikely to be productive in the absence of a new approach. Despite the calls increasingly being made for outright military intervention to resolve the crisis, this seems a wholly unrealistic option, not least because regional resistance to any such course remains intense.

There is a possible negotiated way forward that could avoid Zimbabwe's complete collapse. But it will need a radical shift in negotiating objectives by the country's leaders and regional states, and the standing aside of Thabo Mbeki as mediator in favour of someone perceived as more neutral. The core idea is to establish a transitional administration, run by non-partisan experts, in which neither Mugabe nor Tsvangirai would have any position. It would be mandated to implement fundamental political and economic reforms to stabilise the economy and prepare new presidential elections in eighteen months.

The negotiation process so far has produced a memorandum of understanding on broad principles of a power-sharing arrangement on 21 July and the signature on 11 September of a Global Political Agreement (GPA) for a government of national unity with Mugabe as

president and Tsvangirai as prime minister. The GPA's basic flaws, however, have blocked implementation. At the same time, the ZANU-PF regime has repeatedly violated its premises, including by resuming a campaign of violence against MDC supporters and reappointing key stalwarts responsible for the economic meltdown, such as Reserve Bank Governor Gideon Gono.

With the support of renegade parliamentarians from ZANU-PF and a splinter group from its own ranks, the MDC elected on 25 August its candidate as parliament speaker, but the incentives for it to join a unity government have withered. It considers, reasonably, that without control of the ministries of home affairs – which oversees the police and the electoral system – and treasury and a major share of senior civil service and security posts, it would be reduced to legitimising the status quo and facilitating Mugabe's plans to eventually hand leadership to a ZANU-PF colleague of his choosing.

Even if the parties find a compromise on ministry allocation and related issues, the creation of two power centres by the GPA suggest that, in the context of their intense mutual distrust, political paralysis would prevent serious action to address the country's problems. With the meltdown of vital social services, a cholera epidemic that has claimed 1000 lives, the flight of a third of the population to neighbouring countries where cholera is also spreading, and a third of its remaining citizens facing starvation, securing an end to Zimbabwe's nightmare is going to require a fundamentally new approach.

All relevant Zimbabwean and external actors should commit to a process with the following key elements:

- ❑ The joint mandating of a mediator to succeed Thabo Mbeki by the Southern African Development Community (SADC) and the African Union (AU), with the UN Secretary-General concurrently appointing a special representative to mobilise international help in addressing the humanitarian crisis.
- ❑ The negotiation and passage of a constitutional amendment to create a non-partisan transitional administration to govern for eighteen months, under

the leadership of a Chief Administrator – a neutral Zimbabwean citizen (perhaps now in the private sector, civil society or an international institution). This individual would be chosen by a two-thirds parliamentary majority and be ineligible to stand for president in the next election or serve as prime minister after it. Robert Mugabe would stand down. The positions of president, prime minister and all ministers would be left empty.

- The transitional administration to prepare presidential elections in eighteen months through a reconstituted Electoral Supervisory Commission; the Chief Administrator to have authority, subject to a parliamentary two-thirds confirmation vote, to appoint Administrators to lead the ministries, as well as senior civil servants, the Reserve Bank governor, provincial governors and departmental secretaries. The Joint Operations Command would be dissolved and its members retired, replaced by a National Security Council subject to parliament's approval.
- Mugabe to be given guarantees against domestic prosecution and extradition, and a similar general amnesty to benefit members of the Joint Operations Command if they accept retirement and do not participate in activities threatening the country's stability.
- Donors to commit to give the transitional administration substantial support and, as the process consolidates, lift targeted sanctions.
- The UN, AU, and SADC to identify senior officials to assist the transitional government and monitor cooperation.
- If requested by the transitional administration, SADC countries to deploy security forces to Zimbabwe to promote stability.

II. THE NEGOTIATING DEADLOCK

The inconclusive outcome of the 29 March 2008 presidential elections and the subsequent abortive run-off required continuation of the SADC mediation process seeking a resolution to Zimbabwe's crisis.¹ The state-

¹In the first round of the presidential elections, the MDC leader, Morgan Tsvangirai, received 47.9 per cent of the vote to 43.2 per cent for Mugabe. At the same time, the two MDC groupings, which split in October 2005, captured a combined 109 seats in parliament against ZANU-PF's 97 seats. Taken together, the results amounted to the first electoral defeat for

led violence that preceded the run-off was so intense that even long-time supporters in SADC and the AU were unwilling to accept Mugabe's claim of victory.² On 30 June an AU summit, citing the electoral stalemate, asked Thabo Mbeki (then still president of South Africa) to resume his efforts under SADC auspices to facilitate dialogue among Zimbabwe's principal political leaders, with a view to the formation of a unity government.³

A. THE GLOBAL POLITICAL AGREEMENT (GPA)

On 21 July, ZANU-PF and the two MDC factions signed a memorandum of understanding (MOU) outlining the principles of a dialogue process to lead to a global political agreement to facilitate formation of an inclusive government.⁴ This gave hope of a breakthrough, brought about the first meeting between Morgan Tsvangirai and Mugabe in almost a decade and opened the way for substantive talks between ZANU-PF and the

the ruling party (other than the loss of the 2000 constitutional referendum) in three decades. See Crisis Group Africa Briefing N°51, *Negotiating Zimbabwe's Transition*, 21 May 2008. ²"Africa Union Summit Communiqué", Sharm el Sheik, Egypt, 30 July 2008; "Zimbabwe presidential poll roundly condemned", Reuters, 30 June 2008. During the election campaign, between March and June 2008, which the AU observer team said was flawed, over 150 people were killed, many in state-orchestrated circumstances. See also "Bullets for each of you". State-sponsored violence since Zimbabwe's March 29 elections", Human Rights Watch, June 2008.

³"Summit Communiqué", op. cit.

⁴During the talks in Zimbabwe and South Africa, ZANU-PF was represented by Justice and Legal Affairs Minister Patrick Chinamasa and Labour Minister Nicholas Goche. The MDC (Tsvangirai) team was led by Secretary General Tendai Biti and National Executive member Elton Mangoma. MDC (Mutambara) negotiators were Secretary General Welshman Ncube and Deputy Secretary General Priscilla Misiha-rambwi Mushonga. President Mugabe, Morgan Tsvangirai and Arthur Mutambara signed the document. Its key provisions dealt with restoration of economic stability and growth, development of a new constitution and the framework for a new inclusive government. It sought to achieve the immediate end of violence and the withdrawal and disbanding of militia groups, paramilitary camps and illegal road blocks, as well as normalisation of the political environment and renewed access for humanitarian agencies, so as to provide food, medical and other critical services. It also committed Mugabe not to convene parliament and form a government before a political settlement was reached.

MDC on power sharing.⁵ Prospects for quick agreement quickly faded, however, as Mugabe and Tsvangirai could not agree on the distribution of responsibilities between the offices of president and prime minister.⁶

1. Mediation failure

ZANU-PF sought to give Tsvangirai a position in which he could be contained.⁷ “Mbeki and Mugabe wanted me to become a ceremonial prime-minister. I was not going to accept responsibility without authority”, Tsvangirai told Crisis Group.⁸ Instead, he wanted to lead a government with full executive powers, while Mugabe became a ceremonial head of state.⁹ The MDC negotiating team argued that any agreement needed to reflect the results of the March parliamentary and presidential elections, transfer executive authority from Mugabe and in effect install Tsvangirai as head of government until a subsequent presidential election could be held under a new, referendum-endorsed constitution.¹⁰ The spokesman for Tsvangirai's wing of the MDC, Nelson Chamisa, told Crisis Group: “We are not going to enter into a government where we serve the sole purpose of legitimising Mugabe without having the authority to bring change to the lives of suffering Zimbabweans”.¹¹

ZANU-PF considered that Tsvangirai asked too much from elections that had produced a hung parliament and left the presidency undecided. Its lead negotiator, Justice and Parliamentary Affairs Minister Patrick Chinamasa, told Crisis Group: “Tsvangirai's demands were unreasonable. He wanted to seize power through the backdoor and make Mugabe a titular president. But judging by the results of the March 29 elections, there can be no basis for these demands. What he was asking for is a transfer of power, not sharing of power”.¹² ZANU-PF gained some support for its views from the

Mutambara faction of MDC, which due to its shrinking support base, increasingly regarded the mediation as the route to secure a foothold in a political settlement.¹³ Mugabe, with some help from Mbeki, capitalised on the tensions between the two MDC wings to forge a closer relationship with the Mutambara group.

Mbeki's proposal was that Tsvangirai become “a senior minister with the title of prime minister”, but as such he would have been little more than an ordinary member of Cabinet.¹⁴ Indeed, Mbeki clearly moved closer to ZANU-PF's position.¹⁵ On 18 August, during a SADC summit, he and Angola's President Eduardo Dos Santos proposed as a means of breaking the impasse that parliament be convened, and whoever “controlled parliament should have control over government”.¹⁶ This implied that the election of the parliament speaker would go far toward determining how the powers between the president and prime minister would be allocated.

Dos Santos and Mbeki appeared to believe Mugabe would control parliament with the support of the Mutambara faction and so force Tsvangirai to make concessions or risk being marginalised.¹⁷ To woo the minority MDC faction, Mugabe unilaterally appointed governors for eight of the country's ten provinces on 21 August, in breach of the MOU,¹⁸ but reserved the two remaining slots for the Mutambara camp if it helped ZANU-PF in the speakership contest. Tsvangirai also lobbied Mutambara's legislators hard, however,¹⁹ and on 25 August his candidate, Lovemore Moyo, defeated Paul Themba Nyathi, the candidate jointly sponsored by MDC (M) and ZANU-PF.²⁰ The victory

⁵ Crisis Group interview, Morgan Tsvangirai, Harare, 22 July 2008.

⁶ Crisis Group interview, Tsvangirai legal adviser Innocent Chagonda, Harare, 16 August 2008.

⁷ Crisis Group interview, ZANU-PF politburo member, 11 September 2008.

⁸ Crisis Group interview, Morgan Tsvangirai, Pretoria, 29 November 2008.

⁹ Crisis Group interview, Tendai Biti, MDC (T) secretary general and lead negotiator, Harare, 28 August 2008.

¹⁰ Crisis Group interview, member of Tsvangirai's negotiating team, Harare, 2 August 2008.

¹¹ Crisis Group interview, Harare, 4 September 2008.

¹² Crisis Group interview, Patrick Chinamasa, ZANU-PF lead negotiator and justice and parliamentary affairs minister, Harare, 8 August 2008.

¹³ Shari Eppel and Brian Raftopoulos, “Political Crisis, Mediation and the Prospects for Transitional Justice in Zimbabwe”, Solidarity Peace Trust, South Africa, November 2008.

¹⁴ Crisis Group interview, Jameson Timba, MDC (T) parliamentarian, Pretoria, 1 December 2008. For example, a vice-deputy president, not the prime minister, would chair the cabinet in the absence of the president.

¹⁵ Crisis Group interview, member of Mbeki's facilitation team, Pretoria, 11 November 2008.

¹⁶ Crisis Group interview, Angolan foreign ministry official, Pretoria, 11 November 2008.

¹⁷ Crisis Group interview, South African foreign ministry official, Pretoria, 22 November 2008.

¹⁸ “President Robert Mugabe appoints governors”, *The Herald*, 22 August 2008.

¹⁹ Tsvangirai secretly met Mutambara parliamentarians in Botswana on 22 August and struck a deal to give them a deputy speaker slot in return for supporting his candidate for speaker.

²⁰ ZANU-PF did not field a candidate for the speaker post and threw its support behind the Mutambara candidate.

was made possible by Mutambara legislators who revolted against their leadership and ZANU-PF rebels linked to Vice President Joyce Mujuru and her powerful husband, Solomon.²¹

The result hardened Tsvangirai's resolve to demand full executive powers and sent Mbeki back to the drawing board for a new proposal on shared powers.²² He came up with a vague compromise to create two centres of authority but essentially leave Mugabe's powers intact.²³ SADC backed away from the suggestion that the party controlling parliament should also control the government and endorsed Mbeki's new plan.

2. Guaranteed power struggle

After more negotiations, on 11 September, ZANU-PF and the two MDC formations signed a Global Political Agreement (GPA) providing the basis for an inclusive government.²⁴ The deal was reached after Mbeki and Mugabe agreed Tsvangirai should be deputy chairman of the cabinet and chairman of a body called Council of Ministers.²⁵ Key areas were left undecided, especially the allocation of specific ministries. Moreover, while two centres of power were envisaged, with both president and prime minister having executive authority, the exact nature of their relations and their respective influence over decisions in the cabinet and the Council of Ministers were not clarified. The lack of detailed provisions on allocation of ministries immediately became a problem, as ZANU-PF insisted (and continues to insist) on retaining the key security and economic posts.

The GPA envisages Mugabe retaining the presidency and his role as commander in chief of the armed forces, while chairing both the cabinet and a new National Security Council (NSC) that would replace the infamous Joint Operations Command (JOC).²⁶ Mugabe would also have power – in consultation with the prime minister – to appoint holders of constitutional offices such as commissioners for police and prisons and the Commission for Defence Forces. The agreement stipulates that president and prime minister must agree on the ministries that each supervise, but does not say how disagreements between them are to be resolved.²⁷

Mugabe would also retain the power to dismiss ministers under the constitution (Section 31 E) and only need to consult the prime minister on replacements. He could dissolve parliament in consultation with the prime minister, but could do so even if they disagreed. The prime minister would only chair cabinet in the president's absence.²⁸ He would regularly chair the Council of Ministers, but that body would not formulate policy or initiate legislation, only supervise implementation. The arrangement essentially ignores parliament, thus creating executive authority without accountability.

Tsvangirai accepted the deal under increased pressure from SADC leaders, who accused him of scorning "an African solution" to the crisis.²⁹ He was prepared to try to push reform from within government institutions but recognised that to do so, he would have to have control of at least some key ministries and other administrative positions. ZANU-PF's refusal to concede any genuine share of power slowly drained the GPA's credibility.

A SADC summit, convened on 9 November in Johannesburg to break the deadlock over the security ministries, accepted an idea endorsed by Mbeki that ZANU-PF and the MDC (T) co-manage the home affairs ministry and the arrangement be reviewed after six months. Tsvangirai refused. Home affairs is a vital portfolio, as it oversees the police and the electoral process. Mugabe's refusal to concede this ministry to Tsvangirai, at the same time as he insists on controlling the defence and state security posts, shows that he regards the entire security apparatus as the necessary guarantor for ZANU-PF's retention of power. His sub-

²¹ Moyo received 110 votes, Nyathi from MDC-M 98. A Mutambara deputy told Crisis Group: "Our leaders were negotiating for themselves and colluding with a plan aimed at perpetuating and entrenching Mugabe's hold on power. We were not going to go be part to that devious plan". Crisis Group interview, Harare, 27 August 2008. After the Mutambara faction failed to deliver in the election for speaker, ZANU-PF appointed its own people to the two governorships.

²² Crisis Group interview, MDC parliamentarian Jameson Timba, a member of Tsvangirai's negotiating team, Pretoria, 8 December 2008.

²³ Crisis Group interview, member of the SADC secretariat, Pretoria, 11 November 2008.

²⁴ "Agreement between the Zimbabwe African National Union-Patriotic Front (ZANU PF) and the two Movements for Democratic Change Formations, on resolving the challenges", Harare, 11 September 2008.

²⁵ Crisis Group interview, member of Mbeki mediation team, Pretoria, 2 December 2008.

²⁶ "Agreement", *op. cit.* Tsvangirai would be an ordinary member of the NSC.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ Crisis Group interview, member of the MDC negotiating team, Pretoria, 11 December 2008.

sequent unilateral re-appointment of Gideon Gono for another five-year term as governor of the Reserve Bank was a further sign that he insists on keeping control of all the most important institutions in any inclusive government.³⁰

ZANU-PF hardliners seek to bring Tsvangirai into government as only a junior partner, while making possible removal of targeted sanctions and Western re-engagement to stabilise the economy.³¹ If the MDC could not produce these changes on the international front, it would eventually be dropped. The hardliners also want the new government to have a full term, so they will have time to sort out Mugabe's succession.³² Emmerson Mnangagwa in particular is pushing for a deal which would put him in a favourable position to succeed Mugabe after the party's December 2009 congress.³³ Under that scenario, Mugabe would anoint Mnangagwa to finish his term, then retire and allow him to gain the presidency while avoiding an election.

There are still divisions within ZANU-PF, but they have had little impact on the negotiations with the MDC. Mnangagwa's archrival, Solomon Mujuru, fought to ensure that his wife, Joyce, kept a vice presidency in the new dispensation, so she would have a strong position from which to contend for the Mugabe succession.³⁴ The Mujuru camp wants to trigger Mugabe's exit even before the next party congress and parachute Joyce into the presidency to head an inclusive government alongside Tsvangirai.³⁵ But Mnangagwa has placed his allies in key provincial party positions to give him an edge if an early congress is held.

The MDC, on the other hand, has never really had a Plan B for the eventuality of GPA failure. Since the March elections, the party has been trying to navigate the negotiations with ZANU-PF while managing its own internal pressures. Tsvangirai resisted some unequal proposals from Mbeki or Mugabe but was trapped at other times into concessions from which he subse-

quently had to retreat under pressure from party militants.³⁶ For instance, he reportedly accepted informally the list of ministries Mugabe eventually put out under his own name, and even co-management of home affairs, during one-on-one talks with Mugabe.³⁷ Forced to withdraw his commitments, he badly damaged his credibility. Mbeki wrote complainingly to Tsvangirai that he had himself proposed the sharing of home affairs, and the SADC endorsement of the proposal was based on an understanding that the principals had agreed among themselves.³⁸

3. Constitutional Amendment 19

Despite the deadlocked negotiations, the parties agreed on 27 November to the content of Constitutional Amendment 19, which would give legal effect to the GPA and bar court challenges to decisions taken between March 2008 and the date on which the inclusive government was sworn in.³⁹ This would protect all government decisions by Mugabe and his acting ministers since the elections.⁴⁰ However, there is no understanding on when to pass the amendment.

This agreement notwithstanding, the MDC (T) has adopted a three-pronged approach.⁴¹ First, it has rejected the current terms of the GPA and is pushing for the mediation to be shifted from SADC to the AU and UN. Secondly, it seeks to make parliament an alternative centre of power and block Amendment 19 until its main demands are addressed. Tsvangirai said his party would hold out on all outstanding issues, including equitable distribution of ministries, provincial gover-

³⁰ On 1 December 2008 Mugabe appointed Reserve Bank Governor Gideon Gono to a new five-year term. This was perceived as a possible deal breaker by the MDC; donors have indicated they will not give aid to a government in which Gono – considered an architect of the economic decline – has a key role.

³¹ Crisis Group interview, ZANU-PF politburo member, Pretoria, 8 December 2008.

³² Ibid.

³³ Ibid.

³⁴ Crisis Group telephone interview, ZANU-PF politburo member linked to the Mujuru faction, 11 December 2008.

³⁵ Ibid.

³⁶ Crisis Group interview, national executive member of MDC (T), Harare, 6 September 2008.

³⁷ Crisis Group interview, member of MDC (T) negotiating team, Pretoria, 2 December 2008.

³⁸ Mbeki letter to Tsvangirai, dated 21 November 2008. The letter also criticised MDC (T) Secretary General Biti's negative characterisation of the SADC call for co-home affairs ministers.

³⁹ Crisis Group interview, ZANU PF lead negotiator Patrick Chinamasa, Pretoria, 27 November 2008. But Tsvangirai told Crisis Group in Pretoria two days later agreement on the amendment's content did not mean a deal to form an inclusive government.

⁴⁰ Crisis Group interview, member of ZANU-PF legal committee, Pretoria, 2 December 2008.

⁴¹ Crisis Group interview, member of MDC (T) negotiating team, Pretoria, 2 December 2008.

nors, permanent secretaries and ambassadors and sole control of home affairs.⁴²

Thirdly, the party is letting the economic crisis undermine Mugabe's ability to govern. But at the same time as that crisis has seriously eroded the regime's support base, it has also affected the opposition's urban labour base and capacity to mobilise, while the rural population retreats to barter and survival strategies. The economic free fall actually benefits key sections of the ruling elite, including senior military leaders, who have access to foreign currency. There are indications that Mugabe's foreign friends, such as Malaysia, Angola and Venezuela,⁴³ may provide life-lines for some time yet, and that the regime is prepared to sell land, mines or other assets to any investor with ready cash. Meanwhile it explores new ways to access foreign currency.⁴⁴

The standoff, therefore, is likely to continue and the institutional crisis to worsen. Justice Minister Patrick Chinamasa disclosed to Crisis Group that ZANU-PF has given a go ahead for gazetting the constitutional amendment bill. If the bill does not pass within 30 days, Mugabe is threatening to dissolve parliament and call for fresh presidential and parliamentary elections.⁴⁵

The MDC (T) has no incentive to give in on an inclusive but unbalanced government at a time when the regime is pursuing a new campaign of repression and intimidation against opposition activists, imprisoning dozens and brutalising many more.⁴⁶ The economic situation in particular has triggered several waves of strikes and demonstrations during the past month, involving representatives from virtually all sectors, including doctors and magistrates; almost all have been brutally crushed. Thus, 70 union members were arrested at a 3 December demonstration that police violently dispersed. Human rights activists are being targeted. Jestina Mukoko, national director of the Zimbabwe Peace Pro-

ject, for example, was abducted from home, apparently by state security agents, that same day. Torture camps have also been reported.⁴⁷

B. INEFFECTIVE INTERNATIONAL PRESSURE

Critical voices within SADC and elsewhere in Africa and across the world have generally failed to influence the negotiation process significantly.⁴⁸ Mbeki's fall from power in South Africa has not much affected his mediation style, though his countrymen appear to be becoming more critical of Mugabe. The ruling African National Congress, now led by Jacob Zuma, has tried to influence the Zimbabwe settlement through President Kgalema Motlante. As a sign of a more assertive policy, the government withheld R300 million (\$30 million) meant to fund agriculture activities until an inclusive government is in place.⁴⁹ Motlante stressed that Pretoria's humanitarian aid has to "benefit and reach the victims",⁵⁰ and the ANC has added its voice to growing concerns at reports of the disappearance and possible abduction of human rights activists.⁵¹

Botswana's leadership is the most outspoken in Africa. Foreign Minister Phandu Skelemani called for SADC to enforce a border blockade to force Mugabe's government out and also suggested cutting off fuel supplies. Diplomats told Crisis Group that President Khama intends to tour the SADC region to build a new consensus, but with South Africa mostly still preferring quiet diplomacy and Mugabe retaining the backing of a majority of SADC countries, he will not have an easy time of it.

Targeted sanctions on members of the regime have recently been reinforced. The EU, which added 37 individuals and four companies to its list in July 2008, said after the GPA was signed in September that subsequent decisions about its sanctions regime would depend on the deal's implementation.⁵² Disappointed at the stalemate that has ensued, it added a further eleven persons to its list on 8 December to bring that

⁴² Crisis Group interview, Pretoria, 29 November 2008. MDC spokesperson Nelson Chamisa said, "if our demands are not met, we are simply going to block the passage of the bill in parliament". Crisis Group telephone interview, Harare, 29 November 2008.

⁴³ "Venezuela bails out Mugabe", *The Times*, 27 November 2008.

⁴⁴ For example, the government has been buying old mutual shares to redeem on the South African and London stock exchanges as a way to raise foreign currency. "Zimbabwe raises forex through old mutual shares", *The Business Day*, 11 November 2008.

⁴⁵ Crisis Group telephone interview, 12 December 2008.

⁴⁶ "Violence and Repression rises as deal stalls", Zimbabwe Human Rights Forum report, 6 December 2008.

⁴⁷ Ibid.

⁴⁸ Crisis Group interview, member of the SADC secretariat, Pretoria, 3 December 2008.

⁴⁹ "South Africa withholds aid", *The Business Day*, 27 November 2008.

⁵⁰ "Aid should reach victims", *Pretoria News*, 1 December 2008.

⁵¹ "ANC concern at Zimbabwe's kidnappings", *The Business Day*, 11 December 2008.

⁵² "EU won't change sanctions before October", Agence France-Presse, 15 September 2008.

total to 179.⁵³ In November, the U.S. put four additional "Mugabe cronies" on its list of persons with whom its citizens and companies may not do business.⁵⁴

In mid-year, the UK and U.S. tried to involve the UN Security Council, but South Africa, China and Russia repeatedly opposed this, arguing that the crisis was primarily an internal matter.⁵⁵ While the Council issued its first statement on Zimbabwe, condemning election violence on 23 June,⁵⁶ it failed to adopt a U.S. draft resolution the next month that would have called for an arms embargo and financial and travel restrictions against Mugabe and thirteen senior officials. Nine members voted in favour, but China and Russia cast vetoes.⁵⁷

Many Western countries seem to have adopted a carrot and stick approach, stating readiness to renew aid once a new and functioning government is in place⁵⁸ but at the same time warning the regime that further sanctions would follow if it reneged on its commitments.⁵⁹ As deterioration of the humanitarian situation became more pronounced in December, statements became noticeably more pointed.

⁵³ "Council Conclusions on Zimbabwe", 2886th External Relations Council meeting, Council of the European Union, 22 July 2008; "Council Conclusions on Zimbabwe", 2914th External Relations Council meeting, Council of the European Union, 8 December 2008.

⁵⁴ "Treasury Designates Mugabe Regime Cronies", U.S. treasury department, 25 November 2008, www.treas.gov/press/releases/hp1295.htm.

⁵⁵ "UN Security Council Fails to Pressure Zimbabwe's Government", America.gov, 14 July 2008.

⁵⁶ "Security Council Condemns Violent Campaign against Political Opposition in Zimbabwe; Regrets Failure To Hold Free, Fair Election", Security Council SC/9369, 23 June 2008, at www.un.org/News/Press/docs/2008/sc9369.doc.htm; and "U.S. urges UN Security Council talks on Zimbabwe", Reuters, 13 June 2008.

⁵⁷ South Africa, Libya and Vietnam also voted against the resolution. See "China and Russia veto Zimbabwe sanctions", *The Guardian*, 11 July 2008.

⁵⁸ "The EU stands ready to adopt a set of economic support measures and measures to support a transitional government taking the steps to restore democracy and the rule of law in Zimbabwe, particularly by organising transparent multiparty elections and promoting the economic rehabilitation of the country". "Council Conclusions on Zimbabwe", 2889th External Relations Council meeting, Council of the European Union, 15-16 September 2008.

⁵⁹ See, for example, "Council Conclusions on Zimbabwe", 2897th External Relations Council meeting, Council of the European Union, 13 October 2008; and "Washington issues Zimbabwe ultimatum", *Financial Times*, 18 September 2008.

On 5 December, U.S. Secretary of State Condoleezza Rice called the power-sharing talks "a sham process" and said Mugabe should leave.⁶⁰ UK Prime Minister Gordon Brown went further on 7 December, declaring Mugabe should be ousted as "this is now an international rather than a national emergency", and it is "international because disease crosses borders, international because the systems of government in Zimbabwe are now broken. There is no state capable or willing of protecting its people".⁶¹ Javier Solana broke new ground for the EU, saying, "I think the moment has arrived to put all the pressure for Mugabe to step down", and was supported by President Sarkozy of France (which holds the current EU presidency).⁶² Such statements have had no apparent effect on the Zimbabwe regime, however, and have been used by Mugabe to document his claims of illegitimate Western involvement in internal affairs.

The AU is expected to hold an extraordinary summit on 19 December to seek a common position on the way forward,⁶³ but it is not likely to embrace any serious coercive action. African countries, with Tanzania as the current AU chair and Kenya in their forefront, have certainly resisted calls for anything approaching military intervention.⁶⁴ The South African foreign ministry's director-general, Ayanda Ntsaluba, said that instead Pretoria should increase humanitarian aid to its neighbour.⁶⁵ Among international actors less hostile to Mugabe, China has stressed the need for a unity government and its support for African mediation efforts, as well as offered aid to help with the deteriorating economic situation.

⁶⁰ "U.S. calls for Zimbabwe's Mugabe to step down", Agence France-Presse, 6 December 2008.

⁶¹ "Zimbabwe now an international emergency: Brown", *ZimOnline*, 8 December 2008.

⁶² "EU extends Zimbabwe travel ban, demands Mugabe quit", Reuters, 9 December 2008.

⁶³ Crisis Group interview, African diplomats, Pretoria, 11 December 2008.

⁶⁴ Kenya's foreign minister, Moses Wetangula, criticised his prime minister, Raila Odinga, for urging the AU to deploy peacekeepers. "AU statutes do not provide for military invasion of sovereign states like Zimbabwe. Furthermore, the AU has no troops to send anywhere. It can only ask member states to donate". A senior Tanzanian, State House Director of Communications Salva Rweyemamu, was quoted as saying, "only dialogue between the Zimbabwean parties, supported by the AU and other regional actors, can restore peace and stability to that country". "AU say 'no' to military intervention", *The Herald*, 10 December 2008.

⁶⁵ "South Africa to increase humanitarian aid to Zimbabwe", *The Star*, 4 December 2008.

III. A RAPIDLY FAILING STATE

Zimbabwe's situation has deteriorated to the point where it endangers not only the entire nation's livelihood but also regional stability. The multi-faceted crisis has resulted in collapse of the economy, the health sector, water and service delivery and virtually all public services. A majority of the work force, rural and urban alike, faces deepening poverty, if not starvation. Hyperinflation has wiped out savings, while falling production and inability to pay for imports has caused major shortages of food, electricity, fuel and all basic goods.⁶⁶ Most significant economic transactions are in dollars, resulting in increased speculation, smuggling, dependence on remittances and crime.

Half the population needs food aid. Humanitarian agencies say they need \$550 million for programs to alleviate massive starvation.⁶⁷ With the breakdown of water supplies, cholera is spreading. Zimbabwe Doctors for Human Rights (ZADHR) estimated the cholera death toll at 1000.⁶⁸ The epidemic is spreading to countries of the region, with South Africa, Botswana, Zambia and Malawi already affected.⁶⁹

Four of the country's major hospitals, including the two major referral facilities, Parirenyatwa and Harare, have closed due to strikes by medical personnel and an acute shortage of drugs, medical equipment and running water.⁷⁰ Patients are being sent away, including cholera victims and pregnant women, the latter at a monthly rate of some 250 to 300.⁷¹ At the same time, more than 3,000 persons are said to die from AIDS-related illnesses weekly,⁷² since it is increasingly dif-

ficult to distribute essential anti-retrovirals and nutritional supplements.⁷³

A disastrous land redistribution program has undermined production and created food insecurity in a land that was a net exporter for two decades after independence.⁷⁴ The acute shortage of seeds and fertiliser meant that the April 2008 harvest produced a fraction of what was required to feed the country. The post-harvest assessment by the World Food Programme (WFP) and the Food and Agriculture Organisation (FAO) indicated that 6 million people – half the population – will need food aid by the end of January 2009.⁷⁵ Donor help for this planting season reached only 25 per cent of the poorest smallholders and had limited impact.⁷⁶ Hyperinflation gave farmers little incentive, so many ate seeds intended for planting.⁷⁷ Many households survive on one meal a day or, in rural areas, by eating wild fruit.⁷⁸ To extend food stocks, the WFP has reduced daily rations to less than 1,500 calories, below the survival minimum.

Zimbabwe's education system was once one of Africa's best, with literacy rates over 90 per cent and school attendance over 85 per cent.⁷⁹ But the 2008 academic year has been written off, with most primary and secondary schools closed, as teachers refuse to work for a monthly salary of Z\$500 million (\$10),⁸⁰ not enough to cover even travel costs. An estimated 20 to 30 teachers die every month from AIDS-related causes. Attendance rates have dropped as low as 20 per cent, one text book is available on average in primary and secondary schools, and there is a dramatic decline in pass rates in high school exams. Most university classes

⁶⁶The latest official inflation figure of 231 million per cent was released by the Central Statistical Office in July 2008, but independent economists now estimate inflation to be around 8 quintillion. "Zimbabwe inflation soars to 231 million per cent", Agence France-Presse, 9 October 2008; and "The downward spiral that is Zimbabwe", *The Seattle Times*, 12 December 2008.

⁶⁷"US 500m needed for Food: Relief Agencies NGO", *The Sunday Independent*, 7 December 2008.

⁶⁸"UN: Zimbabwe cholera deaths near 1000", Voice of America, 15 December 2008; and "Surge in Zimbabwe cholera deaths", BBC, 15 December 2008. However, there are probably hundreds of unreported cases in rural areas.

⁶⁹"Cholera spreads across borders", *The Star*, 1 December 2008.

⁷⁰Ibid.

⁷¹Crisis Group telephone interview, Douglas Gwatidzo of Zimbabwe Doctors for Human Rights, 6 December 2008.

⁷²"Zimbabwe crashes", *The Sunday Independent*, 7 December 2008.

⁷³Health Minister David Parirenyatwa told Crisis Group isolation has undermined Zimbabwe's capacity to cope with the humanitarian crisis, telephone interview, 9 December 2008.

⁷⁴For detailed discussion of agricultural issues, see Crisis Group Africa Report N°85, *Blood and Soil: Land, Politics and Conflict Prevention in Zimbabwe and South Africa*, 17 September 2004.

⁷⁵Crisis Group interview, WFP official, Pretoria, 9 December 2008.

⁷⁶"US\$550m Needed For Food: Relief Agencies NGOs", www.thezimbabwestandard.com, 29 November 2008.

⁷⁷"The Elders Zimbabwe Initiative: Report on the visit to Southern Africa", November 2008.

⁷⁸Crisis Group interview, Dr Peter Gwatidzo, Zimbabwe Doctors for Human Rights, 9 December 2008.

⁷⁹OCHA, "UN Consolidated Appeal on Zimbabwe 2009".

⁸⁰Crisis Group telephone interview, Raymond Majongwe, Progressive Teachers Union of Zimbabwe (PTUZ), 6 December 2008. Z\$100 million is equivalent to approximately \$2 but the rates change on a daily basis.

have been suspended. Teachers and other academic staff are also leaving the country in large numbers.

A private soldier earns Z\$100 million a month (\$2) enough to buy four loaves of bread in the hyper-inflated economy, and cash shortages have sparked unprecedented riots by military rank and file.⁸¹ The government has tried to address such shortages by raising weekly withdrawal limits to Z\$200 million, but the riots threaten to fracture a military establishment perceived as Mugabe's only remaining loyal support base. Defence Minister Sydney Sekeremayi told Crisis Group sixteen soldiers face courts martial.⁸²

Most of the estimated 4 million Zimbabweans who have fled the national crisis are now in South Africa, Botswana, Mozambique and the UK.⁸³ So far SADC has largely refused to acknowledge that there is a cross-border displacement crisis, indeed one that threatens a regional outbreak of cholera, but it is difficult to believe that this position can be sustained much longer.

IV. PREVENTING A FAILED STATE

A. THE RESPONSIBILITY TO PROTECT ZIMBABWEANS

Zimbabwe is increasingly being described in terms of the "responsibility to protect" (R2P) norm approved unanimously by the UN General Assembly at the 2005 World Summit and subsequently endorsed by the Security Council. This states that a government has the responsibility to protect its population from mass atrocity crimes – genocide, ethnic cleansing, war crimes and crimes against humanity – and to the extent it is unable or unwilling to do so, the responsibility falls to the international community to take appropriate action, including, should peaceful means be inadequate, coercive action under Chapter VII of the UN Charter.⁸⁴

Even if the cautious view is taken that it is not yet at the stage where full-scale atrocity crimes are currently being committed, Zimbabwe is clearly a country of R2P concern, justifying intense preventive effort to ensure that the situation does not deteriorate to that extent. Relevant considerations are such crimes have certainly been committed in the past (in Matabeleland in the 1980s), conflict-generating tensions are currently very high, the country's coping mechanisms are very weak, the resistance by the authorities to external advice or pressure is very strong, and the quality of government leadership is disastrously low.⁸⁵

A more robust view is certainly arguable, that mass atrocity crimes are now being committed in Zimbabwe and that, accordingly, a threshold has been crossed justifying not just preventive but reactive action, and across the whole spectrum of responses up to and including the most coercive. The argument is that organised violence, including murder, torture and rape, and other forms of persecution including the denial of access to food, that Mugabe's regime has launched against supporters of the political opposition,⁸⁶ has possibly already become "widespread or systematic" enough to meet the definition of "crimes against humanity" laid down in the Rome Statute that established the International Criminal Court (ICC).

And it may not be fanciful to suggest as well that the present humanitarian crisis – with the government presiding over, at the very least, the complete collapse of the country's health system and putting at risk many thousands of lives in the process – could itself be characterised as involving the commission of a crime against humanity, given that the Rome Statute definition of such crimes includes "other inhumane acts of a similar character [to murder, torture, rape and the like] intentionally causing great suffering or serious injury to body or to mental or physical health". It is arguable that reckless indifference to the consequences of one's actions, as well as the deliberate infliction of injury, can constitute the requisite crimi-

⁸¹ "Soldiers riot over cash shortages", *The Zimbabwe Independent*, 4 December 2008.

⁸² Crisis Group telephone interview, 7 December 2008.

⁸³ Crisis Group telephone interview, official at the International Organization for Migration (IOM), Beitbridge, Zimbabwe, 8 December 2008.

⁸⁴ For a full account of the evolution of the R2P concept, and all the issues associated with its implementation, see Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Brookings Institution Press, Washington DC, 2008). For discussion of the application of the norm to recent situations in Burma/Myanmar and Geor-

gia, see Crisis Group Asia Report N°161, *Burma/Myanmar After Nargis: Time to Normalise Aid Relations*, 20 October 2008, p. 6; and Crisis Group Europe Report N°195, *Russia vs Georgia: The Fallout*, 22 August 2008, pp. ii, 28-29.

⁸⁵ See Evans, op. cit., pp. 74-75.

⁸⁶ Severe political violence including regular police beatings, torture, abductions and sexual violence targeting suspected MDC allies has continued throughout the post-election period. See Amnesty International, *Time for Accountability*, 31 October 2008; "Violence returns as talks flounder", IRIN, 13 November 2008; and "Activists go missing in Zimbabwe crackdown", *Los Angeles Times*, 15 December 2008.

nal intent. This argument would become stronger if Mugabe's government were to decide to resist outright the effective implementation of the major humanitarian relief effort now being mobilised by a number of governments and international agencies.

However one characterises the present situation, there is ample justification for the international community moving to apply more forceful political, diplomatic, humanitarian and economic measures than have been put in place so far. Those available include adoption of much broader targeted sanctions against regime members and supporters; UN Security Council referral of actions in Zimbabwe to the ICC for investigation and possible prosecution; expulsion of Mugabe's regime from regional bodies, such as SADC and the AU; and placement of the situation in Zimbabwe on the UN Security Council agenda as a threat to international peace and security. That said, it is hard to be confident that any of these measures would do much more than those that have preceded them to restore normality to the country.

Some have gone further and suggested that the current situation justifies the most extreme form of R2P response – coercive military intervention. But considerable caution should always be applied before going down this path, and there are multiple barriers that would have to be crossed before this became a credible option. In the first place it is not clear that all five prudential criteria that have been identified as needing to be satisfied in these cases⁸⁷ have all been satisfied. On the issue of “last resort” there are other less-extreme coercive options that could be applied, as just noted, and – as will be argued further below – there is a possibly available negotiated outcome.

And on the issue of “balance of consequences” sending in an invasion force without the active support of Zimbabwe's neighbours, and especially South Africa, could have extremely destabilising regional consequences while at the same time not being especially effective: the feasibility of a military intervention to

stop cholera, feed starving populations, reestablish viable medical systems and the like, in the face of armed resistance from the local military and government-supported militias, is very uncertain, especially if Zimbabwe's neighbours were to refuse overflights and use of their territories.

In the second place, such action is not likely to gain the necessary legal authority – either from the Security Council authorising it under Chapter VII, or from the AU or SADC giving it such imprimatur as a regional organisation can, acting under Chapter VIII of the UN Charter. Since the cholera outbreak and its spread across neighbouring borders, there may be a greater willingness among Security Council members than there was in mid-year for the Council to become seized of the situation in Zimbabwe as a “threat to international peace and security”, but at present there seems little or no enthusiasm in any member state, and certainly not in the region, for authorising coercive military action.

The third hurdle is that it is very unlikely that troops could be found for such a mission. Given the large unmet requirements for UN-mandated missions in the Congo and Darfur and the lack of interest in supporting a UN mission in Somalia, the chances of generating forces for a potentially dangerous operation – particularly if it is not approved by the Security Council – seem for the present and immediately foreseeable future, negligible.⁸⁸

B. CREATION OF A TRANSITIONAL ADMINISTRATION

Any course of action intended to help Zimbabwe extract itself from the current nightmare must satisfy complementary objectives. An end to the economic and humanitarian crisis requires donor community buy-in. And fundamental improvement in governance requires reestablishment of a legitimate administration able to attract support from both sides of the political divide and with the capacity to implement extraordinary policies to stabilise the economy, end the political deadlock and administer a massive humanitarian effort.

⁸⁷ The prudential criteria (identified in the original report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, December 2001; the report of the UN Secretary-General's High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, 2004; and the report of UN Secretary-General Kofi Annan, *In Larger Freedom*, March 2005) are 1) Seriousness of Harm, 2) Proper Purpose, 3) Last Resort, 4) Proportional Means and 5) Balance of Consequences. For full citations and discussion, see Evans op. cit., p. 141 and chapter 6 passim.

⁸⁸ The EU's failure to authorise troop deployment in response to UN Secretary-General Ban Ki-moon's call for a bridging force to eastern Congo reinforces this view. See “EU rejects UN request for Congo force”, *European Voice*, 12 December 2008, at www.europeanvoice.com/Article/63419.aspx.

The GPA cannot do this. On all the evidence so far, any power-sharing arrangement bringing ZANU-PF and the MDC together – whatever new formula is devised – is likely to result in paralysis. Partisan agendas and government stasis would block necessary reforms and fail to attract essential international support. Zimbabwean politicians and SADC countries need to recognise that the moment for implementation of the GPA has passed. A more practical solution is required that provides the likelihood of government responsiveness and credibility to address the economic collapse and the humanitarian crisis.

MDC and ZANU-PF negotiators have already cooperated to a degree in agreeing to a draft constitutional amendment to institutionalise the GPA. Some in the ZANU-PF legislative caucus seek a way out of the morass, whether for the good of their country or their own political futures. Morgan Tsvangirai no longer believes the 15 September power-sharing agreement can be implemented. Rather than try the probably impossible, he would prefer to take his chances on new elections in eighteen months. Even some senior military officers see the writing on the wall and would tolerate a non-partisan transitional administration, if they were assured of soft landings and a degree of immunity.

Zimbabweans and SADC also need to recognise that Thabo Mbeki, whatever his competence or intent, can no longer deliver a solution, if he ever could. He has too often come down on the side of ZANU-PF (and the Mutambara faction of the MDC) to be acceptable to Tsvangirai and his supporters. He has also showed too little regard for the various international elements meant to assist and broaden his efforts, such as representatives from the UN Department of Political Affairs, SADC's defence and security organ and the AU Commission. A new diplomatic formula is required. SADC should now turn to the AU for support in breaking the deadlock. That body's Peace and Security Council should urgently appoint a joint SADC/AU mediator, while the UN Secretary-General concurrently appoints a special representative to mobilise international support for urgently addressing the humanitarian crisis.

ZANU-PF/MDC negotiations should concentrate on the terms of Constitutional Amendment 19, so as to establish a non-partisan transitional administration focused on stabilising the country and preparing new presidential elections after eighteen months. For this, a new power structure is necessary, one in which authority derives from parliament, the only legitimately elected body in Zimbabwe, as acknowledged by the SADC summit of 18 August. There are a number of options for creating such a transitional administration,

but Crisis Group believes the most practical and workable would have the following elements:

- During the eighteen-month transition, the posts of president, prime minister and all ministers would be left empty. The government would be led by a Chief Administrator – a neutral expert (perhaps someone now serving with an international institution or from the private sector or civil society: there are a number of credible names from which to choose), chosen by a bipartisan two-thirds majority in parliament and not eligible to stand for president in the next election or serve as prime minister after it. Mugabe would stand down from the presidency – and if he accepts this, would receive a constitutional assurance of immunity from domestic prosecution and extradition, as well as security for his family.⁸⁹
- The Chief Administrator would have the authority to appoint Administrators for the ministries and replace senior civil servants, including the Reserve Bank governor, provincial governors, and ministry permanent secretaries, top treasury officials, the registrar general, the chief justice and the chairpersons of the Electoral Supervisory Commission, the Media Commission, the Public Service Commission and the chief executive of the Grain Marketing Board. These appointments would be subject to parliamentary confirmation by a two-thirds vote.
- The Joint Operations Command, responsible for the security crackdown, would be dissolved. Its officials (chiefs of the general staff, army and air force, police commissioner, prisons commissioner and head of the Central Intelligence Organisation) would be retired but benefit from a general amnesty if they refrained from any activities threatening the stability of the transitional administration or the country. The members of a new National Security Council would be constitutional office holders; at least the interior and defence administrators would require parliamentary confirmation by a two-thirds vote.

⁸⁹ A possible variation would be for all presidential and vice-presidential powers to be transferred to the head of the transitional authority, leaving Mugabe in place as a ceremonial president for the first half of a transition period and having Tsvangirai become vice president for that period and president for the second half, at which time ZANU-PF would take over the vice presidency. This rotating presidency formula was successfully implemented during the 2003-2005 transition in Burundi. But it seems preferable in Zimbabwe to have a clean break, taking both key actors out of the transitional equation.

The constitutional amendment should also outline a meaningful reform agenda to reverse state collapse and be implemented by the transitional administration. It would involve a number of political and economic reforms.

Political reforms

- ❑ *A new constitution.* The parties have agreed on a draft text. Agreement on the process for adopting it is now needed.
- ❑ *Repeal of repressive laws.* POSA, AIPPA⁹⁰ and all other such notorious legislation should be abrogated so as to restore minimum freedoms of expression, association and movement.
- ❑ *Security sector reform.* Mugabe has regularly responded to challenges by increasing militarisation of the state. A joint commission should initiate a comprehensive process to reassert civilian control over the security forces and intelligence services, de-politicise and professionalise them and remove gross human rights offenders.
- ❑ *Transitional justice.* The amendment should also establish a panel of experts to recommend the most appropriate transitional justice process, one that would consider appropriate prosecution and, at a minimum, purge the worst human rights abusers from government positions.
- ❑ *An independent electoral commission.* A genuinely independent body is needed, with full administrative and financial autonomy, to oversee the preparation, conduct and outcome of free and fair elections in 2010 or 2011.

Economic reforms

A national economic program, including land reform and accompanied by the gradual lifting of sanctions and the generous injection of relief aid and development assistance, will be necessary to put Zimbabwe on the road to recovery. It should aim to achieve macro-economic stability and food security and eradicate extreme poverty, as well as advance rapid and sustainable socio-economic development. Elements should include:

- ❑ *Macro-economic and monetary reforms.* Their goals should be to reverse the fiscal and trade deficits

and restore price and exchange rate stability so as to stimulate economic growth.

- ❑ *Land reform.* A rational program is needed to correct the effects of recent mismanagement, stimulate agricultural production, promote food security and contribute to rural development. The logical first step would be to set up a Land Commission, with a clear mandate and strong technocratic base, representing a large cross-section of stakeholders. Its responsibilities would include conducting a comprehensive inventory of land, mediating claims and devising a compensation formula.⁹¹
- ❑ *Depoliticising relief aid.* More and equitably distributed aid could meet emergency food needs, rehabilitate poor, displaced and repatriated populations and gradually revive their productive assets. But such aid has to be freed from politics, particularly in an electoral year, and de-linked from the ZANU-PF administration.

International re-engagement

- ❑ *Assistance and monitoring.* The UN, AU and SADC should identify senior officials to assist the transitional government and monitor cooperation with it.
- ❑ *Security.* If requested by the transitional government and parliament, military forces from SADC countries might deploy to Zimbabwe or be embedded within its army and police to provide protection and security during the transitional phase.

As soon as the new political dispensation is in place and implementation of reforms has begun, the UN, EU, U.S., international financial institutions and many partner countries should support the process with comprehensive packages of humanitarian, financial and capacity-building assistance. Disbursement would be linked to timelines and benchmarks in the political and economic agendas. Preparatory work should begin at once, and donors should quietly inform the mediators and party negotiators of the precise conditions under which they would be ready to lift sanctions and provide their recovery packages. Particular emphasis should be placed on the resettlement of the millions of displaced Zimbabweans, programs to restore health and education systems, and projects to create jobs and address in particular youth unemployment, rebuild the beleaguered justice system and support the reestablishment of civil society groups, including women's organisations.

⁹⁰Public Order Security Act and Access to Information and Protection of Privacy Act.

⁹¹See Crisis Group Report, *Blood and Soil*, op. cit.

Donors have rightly adopted a “principles-based” approach – meaning re-engagement is conditioned on tangible progress – but they must be flexible, particularly on the land issue. The needs are significant, and a portion of aid should be frontloaded. Assuming basic human rights and governance standards are met, donors should engage and help up front, rather than solely after performance. Zimbabwe should be considered a post-conflict country in view of the scale of its trauma. Donor strategies cannot be limited to traditional development practice but must be informed by recent post-conflict experience. Leading donors might create in particular a contact group to support the political process, focus international attention and manage aid flows.

V. CONCLUSION

Zimbabwe's long national nightmare must end, and its only legitimately elected body – the parliament – must take the lead. The rapidly deteriorating humanitarian situation, including a transnational cholera epidemic threat and the hunger and starvation of half the country's population, has intensified discussion of the responsibility to protect the population from its government. The AU and SADC must say enough is enough, appoint a new mediator and encourage a new negotiated outcome, which would involve Robert Mugabe's immediate departure from the presidency and the postponement of Morgan Tsvangirai's leadership aspirations.

Since implementation of the seriously flawed 15 September agreement seems impossible in light of Mugabe's unilateral actions and unwillingness to cede any security sector authority, MDC and ZANU-PF negotiators should establish a transitional administration by constitutional amendment. A pragmatic shift in the current approach to negotiations by Zimbabwe's elected political leaders of the kind described appears to be the only peaceable way to break the long deadlock now destroying the country.

Pretoria/Brussels, 16 December 2008

APPENDIX B

SEPTEMBER 2008 GLOBAL POLITICAL AGREEMENT (KEY POINTS)

Composition of the Executive

- ❑ There shall be a president, which office shall continue to be occupied by the President Robert Gabriel Mugabe.
- ❑ There shall be two vice-presidents, who will be nominated by the president and/or ZANU-PF.
- ❑ There shall be a prime minister, which office shall be occupied by Morgan Tsvangirai.
- ❑ There shall be two deputy prime ministers (from each faction of the Movement for Democratic Change), one from MDC (T)svangirai and one from (M)utambara.
- ❑ There shall be 31 ministers, with fifteen nominated by the ZANU-PF, thirteen by the MDC (T) and three by the MDC (M). Of the 31 ministers, three (one per party), may be appointed from outside the members of parliament. The three ministers so appointed shall become members of the House of Assembly and shall have the right to sit, speak and debate in parliament, but shall not be entitled to vote.
- ❑ There shall be fifteen deputy ministers, with eight nominated by the ZANU-PF, six by the MDC (T) and one by the MDC (M).
- ❑ Ministers and deputy ministers may be relieved of their duties only after consultation among the leaders of all the political parties participating in the inclusive government.

Executive powers and authority

- ❑ The executive authority of the inclusive government shall vest in, and shall be shared among the president, the prime minister and the cabinet, as provided for in this constitution and legislation.
- ❑ The president of the republic shall exercise executive authority subject to the constitution and the law.
- ❑ The prime minister of the republic shall exercise executive authority subject to the constitution and the law.
- ❑ In the exercise of executive authority, the president, vice presidents, the prime minister, deputy prime ministers, ministers and deputy ministers must have regard to the principles and spirit underlying the formation of the inclusive government and accord-

ingly act in a manner that seeks to promote cohesion both inside and outside government.

The President

- ❑ Chairs cabinet;
- ❑ exercises executive authority;
- ❑ can, subject to the constitution, proclaim and terminate martial law;
- ❑ chairs National Security Council (commonly called the Joint Operations Command, JOC, which includes army, police and secret services);
- ❑ after consultation with the vice presidents, the prime minister and deputy prime ministers, allocates ministerial portfolios in accordance with this agreement;
- ❑ may, acting in consultation with the prime minister, dissolve parliament;
- ❑ must be kept fully informed by the prime minister on the general conduct of the government business and;
- ❑ shall be furnished with such information as he/she may request in respect of any particular matter relating to the government, and may advise the prime minister and the cabinet in this regard.

The Prime Minister

- ❑ Chairs the Council of Ministers and is the deputy chairperson of the cabinet;
- ❑ exercises executive authority;
- ❑ shall oversee the formulation of government policies by the cabinet;
- ❑ shall be a member of the National Security Council; and
- ❑ shall report regularly to the president and parliament.

The implementation of the deal will be monitored by a Joint Monitoring and Implementation Committee ("JOMIC") composed of four senior members from ZANU-PF and four from each of the MDC formations.

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