

## DECISION TIME IN ZIMBABWE

### I. OVERVIEW

Change is in the air in Zimbabwe. Its citizens no longer talk about whether it will come, but rather when. All acknowledge, however, that the road will be dangerous, possibly violent. South Africa is the single country with ability to help its neighbour through the roughest patches if it is willing to engage with sufficient determination to persuade the government of President Robert Mugabe and his ruling ZANU-PF party to sit down with their challenger, the Movement for Democratic Change (MDC), and then facilitate and mediate negotiations for a transitional government and new elections. A range of other international players need to play supporting roles, including the EU, the Southern Africa Development Commission (SADC), the African Union (AU), and the Commonwealth, but most directly and prominently the U.S. The visit of President Bush to South Africa on 8 July is a unique opportunity to chart action that could lead to a negotiated solution and an end to the crisis.

Zimbabwe's internal situation has continued to worsen, producing increasingly destabilising effects in southern Africa through refugees and economic chaos and damaging the entire continent's efforts to establish new political and trade relations with the rest of the world through the NEPAD initiative. Inside the country everyone is suffering – the opposition and its supporters from political repression and the collapse of the economy, but even ZANU-PF leaders whose opportunities to plunder a steadily deteriorating state are disappearing – and everyone wants change.

Brutal state-sponsored violence is no longer sufficient to produce compliance by the civilian population. Instead, civil disobedience is increasing. Successful mass action in the form of stay-aways from work orchestrated by the trade unions, civil society groups, and the MDC in March, April and June further undermined the regime's legitimacy and resuscitated the opposition.

In an article published in *The New York Times* in advance of the Bush visit, U.S. Secretary of State Colin Powell said of President Mugabe and his regime, “their time has come and gone”,<sup>1</sup> and that new leadership respectful of human rights and the rule of law was needed. South Africa is working to resolve the Zimbabwe crisis since it is experiencing many of its consequences but Deputy Foreign Minister Aziz Pahad, whose efforts, like those of President Mbeki, have been mostly low key and behind the scenes, said coolly, “I hope we can reach a common approach on Zimbabwe. If there is another route, the Americans must put it on the table”.<sup>2</sup>

There is indeed another route. Getting ZANU-PF and the MDC to the table for unconditional negotiations should be at the top of the agenda when the U.S. and South African Presidents meet.

What is needed is a clear blueprint that spells out and builds consensus around:

- the end objective: a legitimate, internationally and domestically supported government in Harare that is determined by the will of the Zimbabwean people in a free and fair election;
- the facilitation: South Africa must be the primary foreign actor that sits down with the two sides, helps them find the necessary compromises and applies its considerable influence to get them to accept those compromises, but the supportive roles of others in the wider international community, including most directly and prominently the U.S., are essential and need to be well planned and executed;

<sup>1</sup> Colin Powell, “Freeing a Nation from a Tyrant’s Grip”, *The New York Times*, 24 June 2003.

<sup>2</sup> *Cape Times* (South Africa), “Pahad Calls on U.S. to Show its Hand in Financing a Solution for the Zimbabwe Crisis”, 30 June 2003.

- ❑ the participants: ZANU-PF and the MDC, with significant input from other elements of Zimbabwean civil society to widen the process and build stakeholder support; and
- ❑ the process: direct negotiations starting as soon as possible, using an agenda focused on the establishment of the rule of law, the interim administration, and the timetable for elections.

A process of negotiations is the only way out of a stalemate that otherwise promises to become increasingly violent and deadly but it will not be easy. President Mugabe's strategy may well be to goad the MDC into violent protest so that he can crush it much as he did an earlier competing party, ZAPU, which he forced into a deceptively named government of national unity during the 1980s and destroyed following the massacres in Matabeleland. South Africa and Nigeria already attempted to facilitate negotiations in 2002, after the fraudulent Mugabe re-election.<sup>3</sup> The new effort can benefit from the wider awareness on both sides that the status quo is untenable but it will also require a tougher, more consequential approach from both South Africa and others in the international community.

If that is forthcoming, there are indications that President Mugabe may be prepared to step aside provided he gets adequate assurances of personal safety and respect. Over the past few months, he has dropped several hints that he has finished the job of decolonisation in Zimbabwe and is thus ready to retire. Factionalism in ZANU-PF is intensifying in anticipation of a possible succession plan.

## II. THE CRISIS DEEPENS

### A. THE DETERIORATING ECONOMY

Once the second richest country in sub-Saharan Africa, Zimbabwe has seen its GDP decline 27 per cent in three years,<sup>4</sup> and it can expect a further drop

of 15 per cent in 2003.<sup>5</sup> The unemployment rate is between 60 and 80 per cent, while inflation is anticipated to continue to advance from its current annual rate of 228 per cent.<sup>6</sup>

The country is at the brink of famine due to regional drought, the negative effects of a poorly planned and implemented land reform program and an insistence on maintaining control of the Grain Marketing Board's (GMB) importation and distribution of maize meal. Due to the shortages, the UN's World Food Programme (WFP) distributed 60 metric tons of food to 4.7 million Zimbabweans in March 2003 alone.<sup>7</sup> The WFP estimates that 7.2 million Zimbabweans, well over half the population, will need food aid this year.<sup>8</sup> Minister of Labour and Social Welfare July Moyo has made a formal request for assistance from the WFP. As a result, the organisation is re-examining Zimbabwe's needs and will release a report soon. Malnutrition also lessens the ability of infected Zimbabweans to fight the AIDS pandemic.

Prospects for a better harvest seem to be quickly disappearing. The general economic crisis and foreign currency shortage have left many farmers unable to buy spare parts for farm machinery, and the fuel shortage delays or halts the transport of many agricultural necessities. Zimbabwe has a demand for about 400,000 metric tons (mt.) of wheat annually. Only 230,000 mt. were harvested in 2002 due to problems in the agricultural sector.<sup>9</sup> This year's winter wheat harvest is projected to be even smaller. To reap a successful 2003/2004 harvest, agricultural preparations should have begun in April such as ground preparation and purchase and use of seed and fertilizer. Reportedly this has not happened, and Zimbabwe, which will also likely need to import one million mt. of maize

<sup>3</sup> For discussion of that earlier effort see ICG Africa Report No. 47, *Zimbabwe: The Politics of National Liberation and International Division*, 17 October 2002, and ICG Africa Report No. 60, *Zimbabwe: Danger and Opportunity*, 10 March 2003.

<sup>4</sup> BBC, "Zimbabwe Economy Woes Spread", 21 May 2003.

<sup>5</sup> The Economist Intelligence Unit, "Country Watch List: Zimbabwe – Bleaker by the Day", 16 June 2003. The massive protest campaigns alone pursuant to which large numbers of Zimbabweans have stayed away from work for several days at a time and which are discussed below are estimated to have been responsible for a decline in GDP of 2 to 3 per cent in the first half of 2003.

<sup>6</sup> "BBC, "Zimbabwe Economy Woes Spread", 21 May 2003 and ICG interviews.

<sup>7</sup> UN World Food Programme, "The Hunger Crisis in Africa", 2003.

<sup>8</sup> Ibid.

<sup>9</sup> IRIN, 22 May 2003.

this year, faces another poor harvest and food shortage in 2004.<sup>10</sup>

The fuel situation throughout the country continues to be desperate. The wait in many queues can stretch over days. In early May the shortage hit vehicles operated by the city of Harare. Ambulances stopped running briefly, and fire engines, garbage trucks and other municipal vehicles were disrupted as well. Harare's government soon began rationing fuel to non-essential vehicles.<sup>11</sup> The airline industry is affected as well. To prevent the grounding of flights, Air Zimbabwe sent some planes to refuel in Zambia.<sup>12</sup> Amos Midzi, Minister for Energy and Power Development, has publicly denied that another increase in fuel prices is imminent but there has been no improvement in the supply.<sup>13</sup>

Energy imports also continue to be hampered by a shortage of foreign currency. With electricity rationed in most of the country, rolling blackouts are common. While Zimbabwe can produce some electricity internally, even those supplies have become erratic due to problems in the mining and transportation sectors. Power must be imported from South Africa, the Democratic Republic of the Congo and Mozambique, and the government is trying to secure U.S.\$200 million from the private sector as part of its National Economic Revival Program in order to prevent a total disruption of external power. However, the Zimbabwe Electric Supply Association (ZESA) currently owes about U.S.\$45 million to energy exporters in the region.<sup>14</sup>

The foreign currency shortage has led to a shortage in Zimbabwean currency as well. Printers say they do not have enough foreign currency to buy ink or paper or repair printing machines. In addition, printers say that the blackouts caused by power rationing have also affected their business. The result is that there are too few bank notes, forcing some customers to pay bribes to withdraw their own money from the bank. The Reserve Bank of

Zimbabwe has said that it will issue a new Z\$1000 note later this year (valued at no more than U.S.\$0.50 at the parallel rate), to ease printing costs.<sup>15</sup>

Meanwhile, Zimbabwe is also in trouble with the International Monetary Fund (IMF), which has suspended its voting rights due to failure to make payments.<sup>16</sup> Zimbabwe has failed to come through on promised payments of U.S.\$1.5 million every three months against a total debt of U.S.\$223.8 million. Fund officials were encouraged by some macro-economic decisions made by the government including devaluing the fixed exchange rate from Z\$55:U.S.\$1 to Z\$824:U.S.\$1.<sup>17</sup> However, improvements still need to be made in maximising the use of foreign exchange, improving agricultural policies and building relations with bilateral donors. Gold production has continued to slide and the currency remains overvalued. Economists believe that the government may be forced to devalue the currency again, this time to nearly Z\$1500:U.S.\$1.<sup>18</sup>

## B. FREEDOM OF THE PRESS

Freedom of the press was pulled in opposite directions over the past few months. Just as the courts struck down several of the most draconian provisions of the Access to Information and Protection of Privacy Act (AIPPA), the government deported Guardian (UK) correspondent Andrew Meldrum, a 23-year Zimbabwe resident, despite a High Court order staying the deportation. Meldrum was accused of violating the terms of his residency permit by writing about political issues instead of only economics and tourism. He was appealing this decision in court when taken by state agents to a holding facility at the airport. The High Court issued several orders for him to appear in court but he was placed on a plane to London even though

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<sup>10</sup> ICG correspondence and interviews, June 2003.

<sup>11</sup> Voice of America news, 16 May 2003.

<sup>12</sup> *Business Day* (South Africa), 18 May 2003.

<sup>13</sup> Fuel prices were hiked in March from Z\$145/litre to Z\$450/litre, which had the impact of making it impossible for many workers to afford their daily commute to and from work.

<sup>14</sup> IRIN, 12 May 2003.

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<sup>15</sup> *The Sunday Independent* (South Africa), "Zimbabweans Pay Bribes to Withdraw Cash", 25 May 2003.

<sup>16</sup> IRIN, "IMF Suspends Voting Rights", 9 June 2003.

<sup>17</sup> IRIN, "IMF to Decide on Voting Rights", 23 May 2003.

<sup>18</sup> BBC, "Zimbabwe Economy Woes Spread", 21 May 2003.

those court orders were served on immigration officials at the airport.<sup>19</sup>

The Supreme Court eased press restrictions by striking down the “false news offence” clause of AIPPA, which imposed criminal sanctions on any journalist convicted of publishing false information. The Court ruled that Section 80 of AIPPA violated Section 20 of the Constitution, which protects freedom of expression.<sup>20</sup> While this was a victory for press freedom, many other restrictive provisions of AIPPA still stand, such as mandatory registration of all journalists and the requirement that foreign journalists get approval from the government before they can operate on three-month visas. The media commission has also determined that journalists who are registered under one publication cannot write for another. If they choose to change publications they have to register again, which leads to the possibility of their new application being denied altogether.<sup>21</sup>

### C. POLITICAL DISSENT AND STATE-SPONSORED VIOLENCE

A strategy of mass stay-aways from work for several days at a time has raised the pressure for change on ZANU-PF and demonstrated to a surprised South Africa and other external actors that the MDC has staying power and a support base. The first stay-aways, organized by the MDC and held 18 and 19 March 2003, were the largest protests against the government in more than two years. They effectively shut down shops, banks, factories and other businesses, thereby highlighting the MDC’s leadership and the catalytic role of civil society in promoting peaceful change. In response, violence by government-sponsored militia, police and military personnel put 250 MDC supporters in the hospital and 500 in jail, including several members of parliament and other high-ranking party officials such as MDC vice-president Gibson Sibanda, who was held for eight days.<sup>22</sup> MDC Spokesman Paul Themba Nyathi was arrested on

charges relating to the stay-aways when he attended the Sibanda bail hearing.<sup>23</sup> Some 200 MDC supporters are believed to have escaped jail only by going into hiding.

Bolstered by their success, the MDC issued an ultimatum to the government to stop harassing its supporters by 31 March and meet fourteen other demands, including return to rule of law and depoliticisation of the police, or face further mass action.<sup>24</sup> The government ignored the demands. In response to a tripling of the price of fuel<sup>25</sup> and the general economic meltdown, the Zimbabwe Congress of Trade Unions (ZCTU), with the support of the MDC, called for a mass stay-away from 23 to 25 April. ZCTU declared the strikes a major success and said that 90 per cent of its members remained at home.<sup>26</sup>

A third mass action campaign virtually shut down economic activity from 2 June to 6 June. The MDC called this stay-away as part of a “final push” to increase pressure on President Mugabe to step down. In the aftermath, both the government and the opposition claimed victory. Up to 90 per cent of businesses in all major cities were closed during the five days. The government did frustrate opposition calls for mass protests in the streets, mainly by putting on a massive show of force, which included armed units patrolling the streets with the aid of water cannons and helicopters and bands of ZANU-PF youth who beat people indiscriminately in opposition strongholds. In several instances, uniformed state agents entered medical clinics to drag away injured protestors. In all, between 500 and 800 opposition supporters were arrested, and two deaths were reported. Reports indicate that most of the extreme violence came from a relatively small group of state security agents under the direction of Elliot Manyika, a ZANU-PF politburo member and the Minister of Youth, Gender and Employment Creation, whose

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<sup>19</sup> *The Standard*, 18 May 2003.

<sup>20</sup> International Freedom of Expression Clearing House, 8 May 2003.

<sup>21</sup> IFEX, “Journalists Under Threat of Losing Their Accreditation”, 21 May 2003.

<sup>22</sup> *The Independent* (UK), 26 March 2003.

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<sup>23</sup> BBC, “Mugabe Rival Set Free”, 7 April 2003. Mr Nyathi was beaten by police at the Bulawayo Magistrates Court on 7 April and later arrested under Section 5 of the Public Order and Security Act that prohibits recruiting or encouraging any person to commit insurgency, banditry or sabotage. Zimbabwe Human Rights NGO Forum, “Political Violence Report: April 2003”.

<sup>24</sup> BBC, “Zimbabwe Crisis ‘Getting Worse’”, 25 March 2003.

<sup>25</sup> See fn. 13 above.

<sup>26</sup> BBC, “Strike Ends in Zimbabwe”, 26 April 2003.

ministry directs many of the ZANU-PF youth groups that double as militias, such as the Border Gezi Youth. Observers indicate that most of the police who confronted protestors on the streets acted professionally.<sup>27</sup>

ZANU-PF allegedly is trying to reduce the MDC to chaos by arresting top leadership. State agents made a point of arresting opposition leaders. The most prominent was MDC President Morgan Tsvangirai, who was imprisoned for fourteen days while waiting for a bail ruling on a treason charge.<sup>28</sup> Mr Tsvangirai appeared in court in leg shackles and a prison uniform. After his lawyer protested the treatment, he was allowed to change into a suit for the proceedings. Several MDC members of parliament and Japhet Ndabeni-Ncube, the MDC mayor of Bulawayo, were also arrested, as was MDC Secretary General Welshman Ncube, who was, however, released the next day. Before Mr Ncube was picked up, police visited his home at night during the protests. He was not there but they took his staff into the yard and beat them.<sup>29</sup>

The government has moved to prevent such protests in the future by obtaining new legislation that makes it illegal for doctors, nurses, employees of the state power utility, fire-fighters, employees of the state television and radio networks and transport and communications industry workers to strike as they are deemed “essential services”.<sup>30</sup> Labour Minister July Moyo has been granted the power to declare any industry an “essential service” for purposes of preventing a strike. While no penalties have been published, lawyers say that anyone convicted under the act could face up to five years in prison.

The government also appears to be considering retribution against businesses that participated in

the strike. Industry Minister Francis Nhema told state radio on 10 June that the government would take over six firms that closed their doors during the latest mass action.<sup>31</sup> Expatriate employees of those firms would have their work permits revoked and face deportation. The minister said that the firms could be handed over to “loyal, patriotic” new ownership.<sup>32</sup> However, with the regime’s dwindling resources, it is uncertain if it will be able to follow through on the threat.

President Mugabe continued his verbal assault on British officials by publicly accusing British High Commissioner Brian Donnelly of funding and sponsoring the MDC protests.<sup>33</sup>

The loyalty of the security forces may become another problem for the government in the near future. A press report stated that police and other security personnel are being paid less than half their salaries due to Treasury shortages.<sup>34</sup> In 2002 the roughly 40,000 members of ZANU-PF’s youth militia threatened to revolt over non-payment but the situation was resolved before any serious damage was done to the regime. Some analysts predict that President Mugabe could resort to printing money to make the salary payments.<sup>35</sup> However, this is also problematic. As described above, the shortage of foreign currency makes it difficult to import the paper and ink needed to print new banknotes.<sup>36</sup>

The original treason trial of Morgan Tsvangirai reopened in May 2003 after a two-month hiatus. In the early stages of the trial, the key witness, Canadian political consultant and former Israeli Mossad agent Ari Ben-Menashe, provided what many legal experts describe as unreliable testimony regarding his conversations with the accused.<sup>37</sup> The next phase of the trial will likely involve police officers who investigated the charges. A guilty verdict could result in the death penalty.

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<sup>27</sup> ICG correspondence and interviews, June 2003.

<sup>28</sup> This was a new, second charge of treason, brought in connection with the stay-aways strategy. Mr Tsvangirai was initially arrested on 2 June for alleged contempt of court in refusing to heed an order to call off the protests. He was released but arrested again on 6 June on the treason charge. His trial on the original treason charge alleging that he conspired to topple President Mugabe prior to the 2002 presidential elections is ongoing, as described below.

<sup>29</sup> Associated Press, “Zimbabwe Arrests Opposition Group Leader”, 2 June 2003

<sup>30</sup> BBC, “Zimbabwe Bans Public Strikes”, 16 June 2003.

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<sup>31</sup> News 24 (South Africa), “‘MDC Friendly’ Firms at Risk”, 10 June 2003

<sup>32</sup> Ibid.

<sup>33</sup> ITV, “Britain Accused of Backing Protests”, 12 June 2003. Mr Donnelly denied the accusations.

<sup>34</sup> *Sunday Telegraph* (London), “Mugabe ‘Cannot Pay his Security Forces’”, 15 June 2003.

<sup>35</sup> ICG interviews, June 2003.

<sup>36</sup> Ibid.

<sup>37</sup> ICG interviews, May 2003.

Disposition of the case could give clues as to whether the Mugabe regime is prepared to de-escalate hostilities against the MDC and work towards a negotiated settlement.

The MDC maintained its electoral dominance in urban areas by sweeping two parliamentary by-elections at the end of March. In the Kuwadzana constituency near Harare, it garnered 12,548 votes to ZANU-PF's 5,002. In the Highfields constituency, where President Mugabe is registered and voted, the MDC won 8,758 to 4,844.<sup>38</sup> The seats were previously held by the MDC, so there was no change in the make-up of the legislature. Both by-elections were preceded by levels of violence that have typified Zimbabwean elections since the June 2000 parliamentary poll.

Indeed, political violence and intimidation continued unabated in recent months. The following are examples additional to those described above. In late April a paramilitary youth militia affiliated with ZANU-PF took over the small town of Kamativi in Matebeleland, set up checkpoints and made all residents apply for passes. Police who tried to intervene were beaten, and local MDC members were chased away or taken hostage. A member of the youth militia told a BBC reporter they had been deployed to the town "to crush the MDC" in the area.<sup>39</sup>

In April alone there were reports of 278 cases of unlawful arrest or detention, 75 cases of torture, 80 assaults, four death threats and two attempted murders.<sup>40</sup> Since the beginning of 2003 there have been seven murders due to political violence<sup>41</sup> and thousands of cases of unlawful arrest, detention and torture. Much of the political violence perpetrated by the government or ZANU-PF has come either in advance of by-elections or in the wake of mass stay-aways. In several instances, members of the armed forces descended on pubs in Chitungwiza,

Mabvuku and Mutare – MDC strongholds – and beat patrons indiscriminately.<sup>42</sup>

As part of the pattern of harassment of MDC officials after stay-aways, the MPs David Mpala (Lupane) and Jealous Sansole (Hwange West) were arrested on 18 April and held without charges.<sup>43</sup> Sansole was later released on Z\$50,000 bond. Mpala was released with no charge ever being brought, and he has filed a Z\$5 million illegal detention lawsuit against the arresting officers.<sup>44</sup>

On 18 April Richard Tonderayi Machiridza, an MDC supporter from Chitungwiza, died from injuries he suffered when police banged his head into a wall during the March stay-aways.<sup>45</sup>

Gugulethu Moyo, director of the publishers of the *Daily News*, an independent newspaper, was beaten at Harare Central Police Station immediately after the March stay-aways. She had gone there to inquire about a *Daily News* photographer who had been arrested.<sup>46</sup>

### III. AN INTER-PARTY NEGOTIATING PROCESS

#### A. THE ONLY GAME IN TOWN

For reasons of economic influence, prestige, intra-African politics and geography, South Africa will remain the central actor in any international effort to help Zimbabwe out of crisis. An informal troika that also included Nigeria and Malawi emerged in April 2003. In early May the three presidents – Thabo Mbeki of South Africa, Olusegun Obasanjo of Nigeria and Bakili Muluzi of Malawi – travelled to Harare to meet with President Mugabe and the MDC's leader, Morgan Tsvangirai, and examine ways forward. Mugabe undermined their mission by refusing direct talks with the MDC until it drops

<sup>38</sup> ABC News, 1 April 2003.

<sup>39</sup> BBC, "Zimbabwe Militia Occupy Town", 24 April 2003.

<sup>40</sup> Zimbabwe Human Rights NGO Forum, Political Violence Report: April 2003.

<sup>41</sup> Zimbabwe Human Rights NGO Forum, Political Violence Report: May 2003, as well as numerous press reports of two deaths during the June mass actions.

<sup>42</sup> Zimbabwe Human Rights NGO Forum, Political Violence Report: April 2003.

<sup>43</sup> *The Daily News* (Harare), "MDC Legislator Sues State", 2 June 2003.

<sup>44</sup> Ibid.

<sup>45</sup> Zimbabwe Human Rights NGO Forum, Political Violence Report: April 2003.

<sup>46</sup> BBC, "Brutal Zimbabwe Crackdown", 24 March 2003.

its court challenge to the March 2002 presidential poll and recognises his election.

The overwhelming priority must be to get talks started and avert a further meltdown in Zimbabwe. While Mr Mugabe's insistence that the MDC recognise him as the legitimate president clearly presents an obstacle to his participation in any negotiating process, talks could move forward initially at a level beneath him and Mr Tsvangirai. Eventually, however, there will need to be much increased pressure on ZANU-PF to accept unconditional talks.

It is vital that talks begin as soon as possible, facilitated by South Africa and supported as strongly and directly as possible by others in the region and beyond, notably the U.S. Issues that both sides bring to the table could then be addressed and traded on the basis of their relative importance. However, the MDC should not be pressed to drop its case against the legitimacy of the 2003 elections as a condition for those talks. It is surprising that South Africa appears not to contest this Mugabe demand, given that during the ANC's struggle for change, it refused to accept the legitimacy of the South African apartheid government as a condition for negotiations.

Nevertheless, if the talks themselves make meaningful progress, the MDC could then reasonably be asked to suspend its case for the duration of the negotiation, as a tradeoff for concessions from ZANU-PF. In such an eventuality, which would leave the MDC free to revive the case if the process came to naught, the Commonwealth or SADC should agree to collect and safeguard the evidence the MDC has collected as insurance that it could eventually be heard if necessary.

As part of the negotiation process, even as a preparation for it, South Africa is seeking to widen any dialogue beyond ZANU-PF and the MDC by including in some manner a larger cross-section of Zimbabwe's stakeholders. It does not want the process limited to just the two main parties, in part because to some in Pretoria that would seem to lay the groundwork too directly for regime change. Rather, it seeks to diversify participation to include civil society actors such as the churches, unions, human rights groups, and other Zimbabwean organisations. In Harare, some observers worry that

this would allow ZANU-PF to dilute the authority of the MDC by bringing in government-sponsored NGOs, while others are encouraged that adding additional voices would make the two parties more accountable to the population.

It would without doubt be a positive development to have the views of a wider set of actors incorporated into an eventual negotiating process. However, ZANU-PF and the MDC should be the parties at the table, with a mechanism constructed for regular and formal input into the process by Zimbabwean civil society. There must be an agreement on a transitional government leading to new elections, and the most efficient way to get this is negotiation between the two major political entities in the country.

It is imperative that some kind of a process begins in the near future. The more informal and unstructured it is, however, the more the parties – particularly ZANU-PF – will manipulate it, obfuscate its positions, undermine its objectives, and ensure its demise. What is needed is a formal, structured negotiation assisted in various ways by a range of international actors and mediated by a mutually acceptable lead envoy from South Africa. Someone who will be accountable to the process and its forward movement has to be handed the responsibility. The status quo of wait-and-see will result in further inaction and meltdown.

## **B. ISSUES FOR THE PROCESS**

If the negotiations begin, the two parties have bottom line positions that they will want the mediator to address.

On the ZANU-PF side, President Mugabe remains the key player. Over the past few months, he has given a number of hints that he may be looking for a graceful – and safe – way to withdraw from the scene. In previous years, he had focused during his annual 18 April Independence Day speech on the necessity for land reform, which he regularly depicted as the prime mission the government would have to carry out before he would consider political retirement. This year he said, "The land that for over a century we yearned to recover has

come back to us".<sup>47</sup> Subsequently he told an interviewer on state television who asked about the land distribution program, "We are getting to a stage where we shall say fine, we settled this matter and people can retire".<sup>48</sup> In late May, the 79-year old president told a rally in the ZANU-PF stronghold of Mt. Darwin that "The issues of my successor must be debated openly, although I would urge you not to allow it to create divisions within the party".<sup>49</sup> Reports also emerged that Mr Mugabe had a conversation with South African President Thabo Mbeki in June in which he declared his intention to leave office within twelve months.<sup>50</sup>

President Mugabe wants, among other things:

- ❑ a voluntary departure from State House in full recognition of his role as Father of Zimbabwe, responsible for liberating the country both politically and economically;
- ❑ guarantees of immunity, from both domestic and foreign or international prosecution and extradition; and
- ❑ to be able to choose his successor in order to help ensure continued ZANU-PF control, which would require an amendment to the constitution.<sup>51</sup>

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<sup>47</sup> BBC, 18 April 2003.

<sup>48</sup> *Sunday Times* (Johannesburg), "Mugabe 'Ready to Quit'", 27 April 2003.

<sup>49</sup> *Daily News* (Harare), "A Refreshing Signal", 26 May 2003.

<sup>50</sup> *Daily News* (Harare), 17 June 2003. State-controlled media later denied the story of the comment to President Mbeki. It should also be noted that President Mugabe has seemed to take a harder line about staying in office since the stay-aways campaign has gained momentum. He told a television interviewer in June that it would "be nonsense for me to retire a year after my election". *The Financial Mail* (South Africa), "Quiet Diplomacy Blown Away", 13 June 2003.

<sup>51</sup> According to Article 31 of the Constitution, the presidency passes to either of the two vice presidents upon presidential resignation, and new elections must be held within three months. Another person can only be appointed President if both vice presidents are incapable of holding office. This means that a) ZANU-PF would need the help of the MDC in parliament to change the constitution; or b) both vice presidents would have to agree to step down so that President Mugabe could appoint the individual of his

On the MDC side, Mr Tsvangirai will press for:

- ❑ an inclusive transitional authority to create an environment for early free, fair, and internationally supervised elections;
- ❑ abolishing all repressive laws enacted in the run-up to the 2002 elections;
- ❑ dismantling the apparatus that facilitated the theft of that election, beginning with the electoral supervisory commission and the paramilitary forces; and
- ❑ significant international economic assistance, so that he could take credit for delivering a "democracy dividend".

All issues are negotiable, and with skilful diplomacy solutions can be found for them. However, at least the following five will cause the most difficulty:

- ❑ When should elections be held? Some in ZANU-PF will press to keep to the constitutional schedule, which would be in 2008. Others will compromise but insist on at least a two-year interim period. The MDC will seek the shortest possible transition period, with an opening position of three months and a fallback of at least enough time to organise a census, voters roll, new electoral institutions, and codification of freedoms of speech, assembly and press, all of which are fundamental to a fair electoral process.
- ❑ Who in ZANU-PF and the security sector besides President Mugabe should receive immunity from prosecution or extradition? The line of claimants will be long. The MDC and civil society will be understandably resistant to the notion of pardons, so this will have to be carefully addressed.
- ❑ How will land reform be handled? Despite the Mugabe proclamations of a successful completion of economic decolonisation, the issue is far from resolved. A policy regarding illegally seized farms will be extremely

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choice; or c) whichever vice president took over would have to agree to call new elections.



difficult to elaborate, as the politics surrounding the issue are intense.<sup>52</sup>

- How will power be shared? As in any negotiation, one of the most difficult tasks will be allocation of portfolios. A particularly contentious area will involve the security sector, including the army, police and Central Intelligence Organisation. ZANU-PF will strongly oppose diminution of its authority in this sensitive area, whereas the MDC will not accept any deal that does not do this. If the machinery of repression is to be dismantled and the rule of law restored, new leadership will be critical here. The post of interim president, of course, will also be hotly contested.
- What will the Mugabe retirement package look like? This sensitive issue will have to be handled with great care by the mediator. Scenarios abound for his exit strategy, including a farm in Zimbabwe, a role as regional elder statesman, and asylum in a protective third country, but in the end only he knows what he is willing to settle for. The mediator will need to find this bottom line and address it.

There is also the possibility that ZANU-PF will formally agree to a transition but attempt to rig its results by stealing another election, perhaps by breaking away from the negotiating process and announcing a unilateral initiative.

Rumours of this have been about since President Mugabe told supporters in late June 2003 that they should begin preparations for parliamentary elections that are not due until 2005.<sup>53</sup> He may be tempted to use his power as president to call early elections, rig the results as he has in the last two national polls, regain a parliamentary majority sufficient to change the constitution, and then amend that document in a way that would allow his chosen successor to serve out the remainder of his term. This would permit him to retire in comfort without any chance of an opposition electoral victory before 2008.

Any incentive for such a plan needs to be removed. The baseline requirement of a negotiated agreement must be internationally certified free and fair elections. Anything less, and the crisis would continue with or without Mugabe. The mediator, assisted by the wider international community, will need to make clear both that a unilateral initiative will not be recognised and that for an election to be certified as free and fair, a number of reforms will need to be made. First, all informal militias will have to be disbanded and the formal security services depoliticised. Secondly, an international commission comprised of an equal number of countries acceptable to each party, international organisations such as SADC and the Commonwealth, and international non-governmental organisations with expertise in elections should be appointed to examine the entire election process. Thirdly, a truly independent Zimbabwe election commission needs to be created to oversee the campaign and the balloting. Fourthly, election monitors, including international monitors, need to be present in the country starting at the earliest stages of the campaign.

These measures would ensure that a promised transition to a legitimate government could be completed. If they are not implemented, and ZANU-PF attempts to alter the results as it has in the past, the mediator needs to have assurances that a number of steps will be taken such as Zimbabwe's immediate suspension from additional international organisations and a further ratcheting up of targeted sanctions.

## C. PARTY DYNAMICS

If a substantive, focused and structured process of negotiations between ZANU-PF and the MDC is facilitated by South Africa, solutions are within reach. The internal impetus for change is strong within both parties, broadly supported by Zimbabwean civil society. The demand for a solution has never been higher. Understanding these dynamics requires an assessment of forces at work within the two parties.

**1. ZANU-PF.** The ruling party continues to fissure along the lines spelled out in ICG's most recent

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<sup>52</sup> ICG is preparing a book-length report on the subject of land reform in Southern Africa.

<sup>53</sup> ZWNNews, "Mugabe, in Reckless Mood, May Risk a New Rigged Election", 25 June 2003.

report.<sup>54</sup> There are three loosely organised factions. Two, led by Speaker of the Assembly Emmerson Mnangagwa and former Army Commander “Rex” Mujuru respectively, want change. The third, comprising Mugabe apologists, foremost among them Information Minister Jonathan Moyo, is entirely dependent upon the President’s continued rule and thus is resistant to a transition. Any negotiating process will have to be acutely aware of the fault lines represented by these three competing factions; accidentally marginalising one of them could accentuate the spoiler role that it might play.

Factionalism is increasingly taking on ethnic tones as well.<sup>55</sup> The use of ethnicity to divide or mobilise must be watched carefully should polarisation intensify. Large-scale killing is unlikely but possible in such circumstances though were it to occur, it would take on the tones more of Cambodia than Rwanda as it would essentially be politically based. Neither party can claim ownership of a particular ethnic group. Any splits among the Shona or Ndebele are primarily the result of political alliances over the years.

Negotiators will also have to recognise the wild card that the army may represent. ZANU-PF is increasingly involving officers in leadership positions in government. Some in Harare see this as a precursor to a staged military coup in which President Mugabe would retain the real power, and martial law would be used as justification for an intensification of the crackdown on opposition supporters.<sup>56</sup> The mediator should maintain contact with military leaders to help forestall this possibility. Equally important will be whether the ZANU-PF regime can continue to pay the military. If not, change may be accelerated through other means.

Another factor to watch is the degree to which the spoils of state looting are diminishing as the economic crisis eats away at economic opportunities and the Treasury is depleted. The label of illegitimacy – the result of the targeted sanctions and general international isolation the regime suffers – further unsettles a party leadership that worries at home over the MDC’s legal

challenge to the 2002 elections. These factors and fear of state collapse have produced a widening consensus within ZANU-PF that it is time to build a bridge back to the international community.<sup>57</sup> Similarly, there is a growing body of party opinion that negotiations are the only way out of the quagmire.

**2. The MDC.** After months of quiet organising and questions about its relevance, the MDC has “woken up”, as one Zimbabwean observer put it,<sup>58</sup> and has launched a multi-front challenge to the legitimacy of the Mugabe government. It has been empowered and energised by the success of the stay-away campaigns, its improved relations and coordination with civil society organisations such as the unions, and the strength of the evidence it has collected for the court case challenging the 2002 election results. The opposition is further buttressed by strong sentiment within the rank and file of the Zimbabwean Congress of Trade Unions (ZCTU) that supports the MDC’s strategy. From top to bottom, sentiment within the party is strong that further mass action is necessary to increase the pressure on ZANU-PF to accept a negotiated solution to the country’s growing crisis.

As with ZANU-PF, there is a growing body of opinion within the MDC that inter-party negotiations are required. If they begin and are focused on the bottom line of a transitional arrangement leading to early and free and fair new elections, the MDC is ready to make substantial compromises on most issues.

The party is also focusing on the transitional period, preparing itself to share in governing. It has drawn up a transition framework and revival plan, has a shadow cabinet, and a strategy for engagement of donors. South African concerns about the MDC’s capability and preparedness to govern are outdated and diversionary, likely a smokescreen for deeper concerns discussed below.

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<sup>54</sup> See ICG Report *Danger and Opportunity*, op. cit.

<sup>55</sup> Ibid, also See *Africa Confidential*, v. 44, No. 10, 16 May 2003.

<sup>56</sup> ICG interviews and correspondence, May and June 2003.

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<sup>57</sup> See Jennifer Cooke, J. Stephen Morrison and John Prendergast, “Averting Chaos and Collapse in Zimbabwe: The Centrality of South African and U.S. Leadership”, CSIS Report, Africa Notes, no. 15, April 2003.

<sup>58</sup> ICG interview, May 2003.

## IV. BRINGING ABOUT THE NEGOTIATIONS

### A. CALCULATIONS IN THE REGION

As South Africa and its African partners assess the situation and seek to create a mechanism for a solution in Zimbabwe, they are motivated by a number of competing factors. All fear the repercussions of state collapse in Zimbabwe. All want to do more to find a resolution to the problems. South Africa, Nigeria and Malawi were frustrated, however, by President Mugabe's obstructionist stance during their May 2003 visit to Harare.

The motivations of South Africa's principal African partners are relatively straightforward. Nigeria becomes the chair of the Commonwealth in December 2003 and wants to be perceived as having addressed the Zimbabwean crisis. President Obasanjo is concerned with the fate of the New Partnership for Africa's Development (NEPAD) as well, as he is, with President Mbeki, one of the architects of that initiative intended to establish a new political and economic relationship between Africa and the developed nations. President Muluzi wants to mitigate the negative regional economic impacts of Zimbabwe primarily because of the need to relieve the plight of thousands of farm workers in Zimbabwe of Malawian descent who have been badly mistreated by the government there. He is also in his last term of office and concerned about the legacy he will leave.

Motivations for action are also in part driven by the degree to which the downward spiral in Zimbabwe is having an increasingly negative impact on the region and the continent:

- The unwillingness to confront the Mugabe policies more robustly has almost single-handedly destroyed the credibility of the nascent NEPAD.
- Refugee and immigration issues are impacting most of Zimbabwe's neighbours, as many Zimbabweans pour across borders in search of safe haven or better economic opportunities. This originally had a slightly positive net effect in South Africa, since companies there

benefited from the brain drain of highly skilled Zimbabweans, and large farmers watched the destruction of their main competitors. But the impact of increasing numbers of unskilled and illegal immigrants now weighs far heavier. The same is true for other neighbours. South Africa has roughly two million refugees from Zimbabwe,<sup>59</sup> and the number could climb much higher as the economic crisis and hunger worsen. Many refugees are former members of ZANU-PF youth brigades who were bribed with beer and drugs to terrorise opposition supporters.<sup>60</sup> They were threatened with death if they ever abandoned the youth brigades and fear being caught and returned whether by the South African authorities or the Zimbabwean Central Intelligence Organization operating in South Africa.<sup>61</sup>

- Zimbabwe's crumbling state means that basic functions of governance, such as animal health control, are eroding. For example, the European Union warned South Africa in May that it might restrict imports of its beef because of the threat of foot and mouth disease spreading from Zimbabwe.
- New economic data shows that South Africa may have an increasing incentive to push for a resolution of the crisis in Zimbabwe, which is estimated to have cost the South African economy U.S.\$1.9 billion over the past three years, 30,000 jobs and a reduction in the growth rate by 0.4 per cent.<sup>62</sup> South African companies are trying to collect unpaid debts from Zimbabwe totalling U.S.\$55 million.

Civil society actors throughout the region, particularly in South Africa, are more frequently condemning human rights violations in Zimbabwe. The country's own increasingly sophisticated civil society, including church groups, is connecting with churches, unions and other groups in South Africa. The Congress of South African Trade Unions (COSATU) has pressed its partners in

<sup>59</sup> BBC, "Africa Goes Easy on Mugabe", 15 March 2002.

<sup>60</sup> See ICG Report, *Danger and Opportunity*, op. cit., also ICG Report, *The Politics of National Liberation and International Division*, op. cit.

<sup>61</sup> BBC, "Zimbabwe Torturers on the Run", 17 April 2003.

<sup>62</sup> BBC, "Zimbabwe Economy Woes Spread", 21 May 2003.

government to take more robust action in Zimbabwe. This weighs on South African calculations, as well as those of some of its neighbours. South African officials have indicated that the human rights abuses are reaching an unacceptable level.<sup>63</sup>

On the other hand, South African policy continues to be constrained by the wariness with which its ruling party, the ANC, regards the MDC. The Zimbabwean opposition party is considered an indirect, long-term political threat because it is a labour-based movement with a social agenda. The ANC's principal electoral vulnerability later in the decade could be precisely from such an entity if its post-Mbeki presidential candidate does not come from the progressive wing of the party. It would then be possible that COSATU would break its alliance with the ANC, align itself with a wide array of civil society organisations dealing with HIV/AIDS, land reform, unemployment and similar issues, and form a new party. The last thing ANC leaders want now is a model for that kind of political success on display in Zimbabwe.<sup>64</sup> South African policy is also influenced by bitterness over Morgan Tsvangirai's criticism of President Mbeki for inaction and by the desire not to give credence to perceptions that it is carrying out British and American agendas in Zimbabwe.

Nevertheless, the pressures on South Africa to do something constructive are enormous and probably outweigh the constraints.

## **B. WHAT PRESIDENT BUSH NEEDS TO DO**

If no country or international organisation has the leverage and degree of self-interest to push the two sides in Zimbabwe into negotiations and see them through to an agreement that South Africa does, many have important supportive roles to play, none more so than the U.S. President Bush's visit to South Africa is an unprecedented opportunity not only to persuade President Mbeki finally to commit to such an intense effort but also to forge the outline of the way that the wider international community can help him. The U.S. has

considerable prestige in southern Africa and political and economic interests of its own involved in a peaceful resolution of the Zimbabwe crisis but it would be a psychological mistake for President Bush to hammer publicly on South Africa to act. Rather, he should quietly offer encouragement and assurances that if President Mbeki assumes the mantle of public leadership, the U.S. will give him the direct support he and his mediator may ask for in the course of the process, including applying the kind of incentives and pressure that can get the two parties' attention at crucial moments.

## **C. WHAT THE WIDER INTERNATIONAL COMMUNITY NEEDS TO DO**

While only South Africa can deal directly with the negotiations with reasonable prospect of success, it will need considerable help at one step removed from many actors in the wider international community. External pressure on the ZANU-PF regime needs to be increased to ensure that there are no indirect incentives that prompt President Mugabe to hold on to power. The future of the country depends more on how he leaves office than when he leaves. The possibility of an effort either to conduct a snap election unilaterally or to rig the election intended to conclude a transition period has been discussed above. If President Mugabe is weakened economically and forced to make concessions as part of a transition agreement, there will be fewer impediments to free and fair elections or constitutional reform in the future. Strong pressure could also lead to some of the more extreme ZANU-PF hawks being pushed aside in favour of moderates when a transitional government is discussed.

Given the state of the regime's finances, even a small amount of financial pressure would have a large impact. The government has been mortgaging its future for a long time and is nearly running on empty. Foreign governments and international organisations need to place pressure on the business partners of the regime who are providing payments that go to top officials and the security structures that prop up the government. For example, financiers suspected of being involved in liquefying Zimbabwe's diamond assets in the Congo (DRC) and running currency rackets across southern Africa need to be investigated. If it is found that

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<sup>63</sup> ICG interviews, June 2003.

<sup>64</sup> See ICG Report, *The Politics of National Liberation and International Division*, op. cit.

that they are engaging in illegal activity and supporting the Mugabe regime, their assets should be frozen by all countries that wish to see democracy restored in Zimbabwe.

There are widespread reports that ZANU-PF officials are assuming positions in several lucrative industries to protect their personal cash flow. Speaker of Parliament Emmerson Mnangagwa, widely rumoured to be President Mugabe's preference as his successor, has taken a major share of the diesel industry in the country. Several ZANU-PF officials are gaining revenue from interests in the safari market. The sooner these business interests are cut off, the sooner the Mugabe regime will lose its financial incentive to hold on to power.

Additionally, the targeted sanctions imposed by the U.S. and the European Union over the past year against key officials in the regime need to be extended to the spouses and children of those officials. Many ZANU-PF officials who have had their assets frozen or are barred from travel to certain countries are continuing business operations through their families. These lines of support for the regime need to be closed. Nor should government officials and their families be allowed to escape the conditions the former helped to create. There is no justice in bankrupting a once-prosperous nation only to send your family to live in splendour in London or New York.

The travel restrictions on key officials of the regime that are part of those targeted sanctions have been riddled with exceptions as a result of the legal obligations the U.S. and EU member states have to admit accredited representatives to attend meetings of international organisations such as the UN or other treaty established bodies.<sup>65</sup> There is not much that can be done about some of these cases because

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<sup>65</sup> For example, Belgium allowed Trade Minister Samuel Mumbengegwi, who is on the EU list of officials barred from travel, to come to Brussels to attend a May 2003 meeting of the African, Caribbean and Pacific (APC) group, the body that the EU interacts with on development assistance. The government said there was nothing it could do since it was obliged as the seat of the EU to accept a representative properly designated by a member state of that group.

of the requirements of international law but every effort should be made to ensure that the exceptions are kept to a bare minimum.

The several international bodies of which Zimbabwe is a member and that have direct interests in resolving its crisis should also play active roles. SADC and the AU could most effectively support the South African mediation by applying quiet diplomatic influence on the ANC and MDC to negotiate without preconditions. The Commonwealth, which suspended Zimbabwe's membership immediately after the March 2002 presidential election, should maintain that action at least until considerable progress has been made toward reaching and implementing a negotiated solution to the crisis and encourage its member states to apply targeted sanctions against key members of the ZANU-PF regime similar to those already undertaken by the U.S. and EU.

Finally, the international community should push for the MDC's presidential election challenge as well as its remaining parliamentary election challenges to be heard by Zimbabwe's courts. Expert judges representing SADC and the Commonwealth should observe these challenges. While there is a possibility that the MDC might delay the presidential election challenge if negotiations begin and look promising, at least the parliamentary challenges should proceed as a symbol that the Zimbabwean judiciary is non-partisan and capable of dispensing blind justice both before and after a transition in government.

## V. CONCLUSION

No matter how glacial the pace, the fact that the southern Africa region is beginning to engage on Zimbabwe is a positive sign. South African leadership is the indispensable core of any effort to resolve the crisis, while President Bush's visit provides an opportunity to persuade President Mbeki that if he provides that leadership, he can rely on strong backing.

Robust support from the U.S., EU, and Commonwealth countries, as well as Zimbabwe's neighbours in SADC and other African states, is essential if there is to be a negotiated settlement. Keeping public diplomacy to a minimum while

increasing the quiet pressure on ZANU-PF, for example through an expansion of the targeted sanctions, would be the most useful manifestation of support. All these external actors should make clear that those targeted sanctions and other exclusionary measures directed against the regime will be lifted when a deal is struck and implemented and otherwise give Pretoria and its mediator the tangible assistance they will need to bring about a negotiated solution.

If a way forward is not found soon, the most likely outcomes will be increased violence, state collapse and further suffering for the people of Zimbabwe but also of the wider southern African region. With a well-constructed diplomatic effort buttressed by meaningful measures, however, the result can still be positive for Zimbabwe and its neighbours.

**Nairobi/Brussels, 8 July 2003**