

# **The Global Political Agreement and Democratic Transition in Zimbabwe**

Danielle Connolly

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## **Introduction**

The Global Political Agreement (GPA) emerged as the solution to Zimbabwe's disputed 2008 presidential election. The Southern African Development Community (SADC), principally South Africa, mediated a resolution after regional observers were not able to endorse it as free and fair. The solution lay in brokering a power-sharing deal between the three main competing parties—the Movement for Democratic Change (MDC) factions led by Morgan Tsvangirai and Arthur Mutambara, and the Zimbabwean African National Union-Patriotic Front (ZANU-PF) led by the incumbent Robert Mugabe. The GPA was intended as a roadmap to democratic transition while addressing the immediate demands for peace and economic stability.

This paper will investigate the success of the GPA as a solution to the democratic impasse within the context of a growing trend across Africa towards 'national unity' governments. The African Union (AU) and other regional bodies have urged such coalitions in Kenya, Zimbabwe and Côte d'Ivoire following inconclusive, disputed or even stolen elections. It is necessary, therefore, to question whether these are done in the interests of furthering democracy, whether the solution offers peace at the expense of democratic will, or more sinisterly, if it reveals an unwillingness on the part of African leaders to confront intransigent 'members of the club'.

This paper argues that SADC and the AU have a critical role in overseeing implementation of these agreements and that their role as guarantors makes them responsible for the fulfilment of the democratic aspirations of states' citizens. These goals should be privileged ahead of brotherly appeasement through power-sharing political deals—which are frequently stymied by lack of political will. The failure of the guarantors to condemn or act upon serious cases of non-compliance defeats the purpose of such methods of resolution.

In the event of an inconclusive election, if a power-sharing deal is to be tabled, then there must reasonably be certain prerequisites: there should either be political will by the political parties involved—to cooperate and implement reforms—or there should be enforcement mechanisms ensuring an acceptable degree of compliance to the transitional programme. In the Zimbabwean case, the AU and SADC have consistently failed to ensure either condition and have thus failed to dedicate themselves to delivering the transitions they claim to support.

### **Successes and Failures of the GPA in Zimbabwe**

The hope that power-sharing would lead to essential reforms and further the democratic transition in Zimbabwe was short lived. Important institutional and legislative reforms have been obstructed by the overt hostility and political brinkmanship that have come to characterise the Government of National Unity (GNU). Examples of impasse include the disdain shown for new Government structures by the old guard, including the refusal by ZANU-PF Cabinet Ministers to accept the authority of the Prime Minister, or Parliamentary oversight by the Portfolio Committees. The issue of unilateral appointments by the President is another such problem, demonstrated amply by the partisan conduct of the Attorney General, whose selective application of the law has been used tirelessly for political ends. The arrest and arraignment of MDC legislators on spurious charges is a favourite tactic of obstruction and was maliciously used to try to manipulate voting strengths in the House of Assembly during the re-election for the Speaker of Parliament.<sup>1</sup>

Political tolerance and civil liberties, media freedom, and respect for the rule of law and human rights continue to be disregarded. Civil society, social and community activists have faced the brunt of state-sponsored repression and intimidation by the police, youth militias, war veterans and the army. Civic meetings and non-ZANU-PF

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<sup>1</sup> The re-election took place on 29 March 2011 after the Speaker's position was challenged by ZANU-PF Member of Parliament Jonathan Moyo. A number of MDC-T MPs were kept detained in police cells or remand prison. The intent of malicious prosecution was clear when, on the morning of the vote, the state invoked an infamous section of the Criminal Procedure and Evidence Act (S121) to appeal against bail granted to MDC-T Minister Elton Mangoma, thus extending his incarceration by a further seven days.

rallies are frequently banned, with the worst areas of infringement being people's constitutional rights to freedom of expression, assembly and association, as well as security and equality before the law. ZANU-PF propaganda and hate speech churned out by the state media also impedes constructive engagement and political tolerance.

The 'outstanding issues' (a list of complaints from the political parties regarding each others' failure to meet the GPA benchmarks) have increased over the two years of power-sharing, all of which have been abetted by the SADC's non-transparent and ineffective mediation. A few empirical examples will be given to show how selective application of the GPA has resulted in a lack of transformation of the system of governance. Notwithstanding these considerable troubles, relative to the pre-GPA era there have been some signs of improvement in the economic and social sectors, which has, in turn, facilitated a superficial level of popular support for the GPA.<sup>2</sup>

The improvements have largely been due to the restoration of cooperation between government, financial, humanitarian agencies and international donors. Stabilisation of the economy was tied to the adoption of a multi-currency system (and the abandonment of the Zimbabwean dollar) and the efforts to channel resources into much needed social infrastructure such as schools and hospitals.

However, while tentative economic stabilisation has progressed, GPA provisions related to inclusive economic policy-making, such as the formation of the National Economic Council, have remained unfulfilled.<sup>3</sup> Similarly, recovery cannot be achieved while the Treasury struggles with insufficient revenue collection, crippling debt repayments, and state resources (diamonds, for example) simply not finding their way to the Treasury. Hostile and inconsistent policy positions also hamper investment and sustainable growth.<sup>4</sup>

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<sup>2</sup> This is demonstrated by the results of a recent survey which polled a majority of Zimbabweans in favour of the power-sharing agreement and the GNU largely due to improvements in their socio-economic situations as opposed to confidence in key democratic or state institutions. Mass Public Opinion Institute, *'Survey findings of Performance of the Inclusive Government'*; carried out for Afrobarometer in August 2010, with results disseminated in Harare, Zimbabwe, January 2011.

<sup>3</sup> Article III (c & d) of the Global Political Agreement: 'Restoration of Economic Stability and Growth'.

<sup>4</sup> For example, the Indigenisation Regulations proposed by the ZANU-PF Ministry of Youth, Empowerment and Indigenisation, which make it mandatory for 'non-indigenous' business owners to cede a controlling interest of 51 per cent to indigenous Zimbabweans. This was hotly refuted by the MDC, demonstrating a lack of policy agreement and consistency that further exacerbated the drop in

Initially, some degree of inter-party cooperation was observed through various bodies such as the Constitutional Parliamentary Committee (COPAC), which embarked on its mandate to produce a new constitution.<sup>5</sup> However, the process was marred by political intimidation, delays, disruption and the harassment of the MDC co-chairperson and Member of Parliament, Douglas Mwonozora.<sup>6</sup> Mwonozora was arrested in mid-February 2011 along with twenty-three of his constituents on trumped-up charges of public violence. During this time COPAC resumed the data-processing activities of the public outreach programme amid questions that information was missing or had been tampered with. Moreover, in spite of the GPA's requirement that the parties discuss and agree on policy issues, the brazen unilateralism of the ZANU-PF has served to advance the party's agenda through national policy decisions and key appointments. To the detriment of the Zimbabwean polity, this has all gone un-censured by the Guarantors.

It is also clear that elements of the unity government have no intention of ever facilitating critical reforms. Oversight of the security sector would have been essential for ensuring demilitarisation of the political environment, as envisaged by the formation of a National Security Council involving all the parties of the GNU. This was meant to replace the Joint Operations Command, whose security chiefs answered only to Mugabe. However, this and other provisions relating to the impartial conduct of state actors and institutions have received mere lip-service if anything at all.

Likewise, the sharing of the Ministry of Home Affairs between the MDC and ZANU-PF has also proven to be a hollow promise. This was recently demonstrated by the Commissioner-General of the Police appearing before a Portfolio Committee and asserting that all acts of recent political violence had been perpetrated by the MDC, including the MDC Co-Minister of Home Affairs.<sup>7</sup> Under the Commissioner-General

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investor confidence, as illustrate by a fall of 7.6 per cent on the Zimbabwe Stock Exchange in February 2010.

<sup>5</sup> Article VI of the GPA makes this a key deliverable for the Government of National Unity as it should precede the holding of fresh elections.

<sup>6</sup> For full reports of the outreach environment, see ZZZICOMP reports jointly issued by Zimbabwe Lawyers for Human Rights, Zimbabwe Elections Support Network and the Zimbabwe Peace Project.

<sup>7</sup> ZLHR, Parliament Watch, '*Chihuri hits out at NGOs, accuses MDC of perpetrating violence*', 3 March 2011.

of the Police, the Attorney-General's Office and the Ministry of Justice, law enforcement agencies have continued to shield perpetrators and consistently persecute and harass opposition members and civic and human rights activists. For example, while no legal action has been taken against the known perpetrators of the 2008 electoral violence—the Attorney-General describes this as his discretionary right in deciding whom to prosecute—in February 2011, thirty-nine activists who had come together to watch televised footage of the recent Egyptian revolution were arrested, tortured in custody and charged with treason. Further examples include the protracted detention of a Facebook user for allegedly 'subverting a constitutional Government' through comments he posted on the Prime Minister's page about the merits of 'unity of purpose', as well as the detention of other 'opposition' political actors—all of which demonstrate a lack of impartiality and adherence to the rule of law. Far from furthering the GNU-vaunted project of national healing, the behaviour of the state has sent a clear message to perpetrators that they can operate with impunity.

Moreover, very little legislative progress has been made on the transition to substantive democracy. Although Article XVII of the GPA exhorts the parties to prioritise the legislative agenda, 2010 saw Zimbabwe's poorest legislative output. Only six acts were passed by Parliament. The amendment bill to the draconian Public Order and Security Act, for example, has stagnated for eighteen months, with considerable ramifications for civil and political liberties.<sup>8</sup>

### **How Did the GPA Fare as a Solution to a Democratic Impasse?**

SADC's soft mediation and refusal to condemn outright acts of unilateralism and abuse have resulted in the dramatic disintegration of commitment to the GPA. Furthermore, the GPA's internal enforcement mechanism, the Joint Monitoring and Implementation Committee (JOMIC), is too structurally weak to be effective. These deficiencies relate to JOMIC's political composition, whose leadership includes members of the various political parties. This has in turn compromised its independence, while its lack of jurisdiction has meant that it is not in a position to

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<sup>8</sup> Veritas, Bill Watch 1/2011, 20 January 2011.

affect or enforce compliance to the GPA since the Committee is only empowered to make recommendations to the Principals. This has all been exacerbated by the fact that the Committee does not have the internal capacity to follow up on all the evidence presented to it. These shortcomings have collectively hamstrung another opportunity for bona fide political oversight and direction.

With the spectre of elections looming on the horizon, the political players are already setting their agendas towards vigorous campaigning. This poses a serious catch-22 scenario. On the one hand, elections are the only acceptable way to bring about a political hand-over that represents the will of the people and, given the perpetual contestation and compromise that accompanies any reform or decision in the GNU, to effect real change in the system. On the other hand, without reforming flawed institutions, repressive legislation and the operational environment, the elections are sure to transpire exactly as before. The current behaviour of the GNU indicates that the parties are pulling in opposite directions and are resolute in making the situation so untenable for their partners that it provokes a government breakdown. SADC and the AU will of course be called on to provide election monitoring and, once again, their endorsement of the result will be the defining factor. Have the people of Zimbabwe lost their sovereign democratic will to regional bodies?

The GPA may have provided temporary breathing space for the population to gather itself after a period of political, social and economic turmoil; it may have also enabled the MDC to gain experience in the corridors of power; and, moreover, for ZANU-PF to regain its legitimacy, rethink its strategy, and replenish its campaign coffers through the control and exploitation of national resources. In short, however, the GPA has inadequately furthered the democratic transition because it could not establish a level playing field. ZANU-PF's limited political will to make the agreement succeed required external oversight and enforcement for power-sharing to mean real reform instead of opportunistic gain. Regional reverence for Mugabe as a liberation leader means that SADC has resisted the punitive approach to GPA non-compliance that the agreement so desperately required. The AU has also eschewed its responsibilities to ensure compliance to democratic norms and respect for human rights, its own regional treaties, and the GPA. It will be the credibility of such regional institutions and mechanisms that is called into question when they fail to adequately respond to acts of

outright intransigence. However, in the final count, it is the citizens who have been disenfranchised and, while democracy languishes, they are the ones who are left to bear the brunt of political fratricide.

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**Danielle Connolly BA (University of London, SOAS), MSc (Oxon), currently works at Zimbabwe Lawyers for Human Rights, Harare, Zimbabwe.**