



Institute for Security Studies

# POLICY BRIEF

## RECOMMENDATIONS

To ensure peaceful and credible elections in Zimbabwe:

- The political parties should set aside a date for the general elections as well as agree upon, and implement, a SADC-endorsed electoral roadmap that pragmatically sequences key reforms in a manner that reflects the three main stages in the electoral process.
- SADC should remain engaged and help the Zimbabwean parties unlock a possible logjam in the finalisation and implementation of the electoral roadmap in order to put democratisation on a sustainable footing.
- The roadmap should include the formulation of a code of conduct to guide the behaviour of the security sector in the electoral process so that it conducts itself in a non-partisan manner, and enforce political leaders' calls to prevent the violence and intimidation that has undermined democratic electoral processes in the past.
- SADC defence and police chiefs should utilise the Defence Sub-Committee and the Southern African Regional Police Chiefs Cooperation Organisation as forums to reach out to their Zimbabwean peers regarding the role of the security establishment in support of elections.
- The SADC Troika representatives should be deployed to work with the Joint Monitoring and Implementation Committee, comprising members of the three coalition government partners, to ensure the parties' compliance with the roadmap.
- SADC should consider giving its Electoral Advisory Council a more comprehensive mandate to ensure that Zimbabwe's elections conform to regional standards for democratic electoral processes.
- Civil society groups and the media should continue to monitor the political environment to demand accountability and transparency during the electoral process, and compile early warning reports.
- As guarantors of the Global Political Agreement (GPA), SADC and the African Union have a responsibility to support Zimbabweans by deploying an advance team of monitors to undertake an independent analysis of the pre-election environment and a heavyweight team of long-term monitors to ensure peaceful and credible elections that conform to regional and continental expectations.
- The UN should, if requested by the Zimbabwean government, prioritise funding activities that promote peaceful, transparent and credible elections, including increasing the capacity of the electoral commission and domestic observers to enable them to carry out their mandates more effectively.

## Towards delivering credible polls in Zimbabwe

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### SUMMARY

The people of Zimbabwe are expected to cast their votes in general elections in 2013. Because of the likelihood of a troubled lead-up to these elections, Zimbabwe's political parties, the Southern African Development Community (SADC) and the United Nations (UN) are considering a series of measures aimed at preventing the re-occurrence of the violence and intimidation seen in 2008. This policy brief focuses on the context of these elections and considers a number of possible related trajectories.

### CONSTITUTIONAL REFERENDUM: SETTING THE SCENE FOR A NEW POLITICAL BATTLE

In September 2008, the three political parties represented in Zimbabwe's parliament – the Zimbabwe African National Union-Patriotic Front (ZANU-PF), led by President Robert Mugabe, and the two formations of the Movement for Democratic Change (MDC), namely the MDC-T led by Prime Minister Morgan Tsvangirai and the MDC-N, then led by Arthur Mutambara – signed the Global Political Agreement (GPA).<sup>1</sup> The GPA, brokered by SADC, ended the 2008 election wrangle between Tsvangirai and Mugabe, and put in place a transitional coalition government in February 2009.

This was pursuant to an African Union (AU) Summit Resolution on Zimbabwe on 1 July 2008, which called for the formation of a government of national unity to resolve the contested election.<sup>2</sup> Applying the principle of subsidiarity, the AU has largely delegated the resolution of the Zimbabwean political deadlock to SADC. Given Zimbabwe's well-documented history of election-related violence, the adoption of a new democratic constitution to replace the much-amended post-war Lancaster House constitution of December 1979 is a key requirement of the GPA, and central to the agreement's goal of creating an environment conducive to peaceful and credible elections.

In February 2013, the Constitution Select Committee of Parliament that was mandated to consult Zimbabweans and draft a new constitution accomplished its task after more than three years of acrimonious debate.<sup>3</sup> A total of 3 317 695 people, more than half of the estimated 5,6 million registered voters, participated in the 16 March 2013 constitutional referendum, and a landslide 94,5 per cent of the votes were in favour

of the new constitution.<sup>4</sup> The voting was largely peaceful and orderly and the SADC Election Observer Mission gave the referendum a clean bill of health.

The approval of the new Zimbabwean constitution moved the struggle for power between Zimbabwe's coalition government parties into a new phase.<sup>5</sup> The three parties, which had turned the constitution-making process into a political wrangle for over three years before striking a deal on the compromise constitution, will now have to set a date for the elections and agree on, and implement, a roadmap to peaceful and credible elections in order to avoid a repeat of the 2008 disputed poll outcome.

## INTERNATIONAL COMMUNITY AND THE ELECTORAL ROADMAP

SADC and other members of the international community viewed the peaceful referendum as a significant step forward in the implementation of the GPA.<sup>6</sup> The regional body has been lobbying the West to lift its targeted restrictive measures against Zimbabwean individuals and companies, partly to prevent ZANU-PF from using the existence of 'sanctions' as an excuse for not fully implementing the provisions of the GPA.<sup>7</sup> SADC has repeatedly pointed out that the successful conduct of Zimbabwe's forthcoming polls, which would provide the regional body with an exit strategy, is crucial. Significantly, robust and consistent communiqués have emerged from SADC summits since the March 2011 Troika Summit of the SADC Organ on Politics, Defence and Security Cooperation in Livingstone, Zambia, urging the GPA parties to develop and implement a roadmap with timelines to free and fair elections.

In March 2013, Australia announced it would lift measures against 55 prominent Zimbabweans in response to the announcement of the date for the constitutional referendum. On 25 March, the European Union (EU) suspended restrictive measures against 81 individuals and eight companies. However, Mugabe remained on the list of prominent Zimbabweans still targeted by the EU travel ban and assets freeze 'until peaceful, transparent and credible elections have been achieved'.<sup>8</sup> The EU has welcomed SADC's commitment to deploy a robust observation mission to monitor Zimbabwe's forthcoming elections in accordance with the Principles and Guidelines Governing Democratic Elections in the Region. In April, the United States (US) suspended targeted sanctions against two Zimbabwean banks – the Agricultural Development Bank of Zimbabwe (Agribank) and the Infrastructure Development Bank of Zimbabwe (IDBZ) – in response to the peaceful constitutional referendum.<sup>9</sup>

ZANU-PF insists that Western international observers, particularly from the EU and US, will not be invited to monitor the polls as they have imposed targeted sanctions against Zimbabwe.<sup>10</sup> It is essential that the EU and US suspend the remaining symbolic targeted measures, which can become an unnecessary distraction from the electoral roadmap. The EU and the US should continue to express their readiness to consider any request for support for the

democratic elections in Zimbabwe in support of the SADC electoral roadmap. It is crucial that they remain committed to political dialogue with the coalition government and work with any government 'formed as the result of a peaceful, transparent and credible electoral process'.<sup>11</sup>

The question of the Zimbabwean government's official request to the UN for assistance in mobilising resources for the elections is fraught with uncertainty and is being approached cautiously by all of the GPA parties, particularly ZANU-PF. In accordance with standard policy, the UN Focal Point for Electoral Assistance at UN Headquarters reviewed Zimbabwe's request and advised the government that a UN Needs Assessment Mission (NAM) would have to be dispatched to the country to evaluate the political environment in order to determine the level of electoral support the UN may provide. The UN Focal Point forwarded the regular Terms of Reference of the proposed NAM to the government for consideration on 15 February. As of 30 April, no agreement had been reached on the modalities of the NAM. It is crucial that the UN continues to engage with the Zimbabwean government to determine if an agreement can be reached on the modalities that will allow the NAM to be conducted.<sup>12</sup>

## POTENTIAL FOR A TROUBLED RUN-UP TO THE ELECTIONS

Although Zimbabwe's main political parties supported the proposed constitution and the constitutional referendum was held in a relatively peaceful environment, there are concerns that the political stakes will be higher in the forthcoming elections and that this could result in violence. The new constitution will ignite new battles to terminate the shaky coalition government that both Mugabe and Tsvangirai have conceded to be dysfunctional. Zimbabwe has a history of electoral violence and its political temperature could rise as the election battle lines are drawn.

While Zimbabwe's political leaders have called repeatedly for national reconciliation and peaceful political activities, there are already signs that targeted violence could rear its ugly head again. The run-up to the referendum, and its aftermath, was marred by detentions, intimidation and the harassment of political activists and civil society representatives. The violence of the 2000, 2002, 2005 and 2008 elections still lingers in the minds of many Zimbabweans, making them susceptible to 'psychological warfare premised on manipulating the fear inculcated in communities' over the years.<sup>13</sup> With the security sector's partisan involvement in the country's politics and threats by the security chiefs to veto the forthcoming election, there is a danger that the police and other security agents may abuse the rule of law during the polls instead of securing the vote.

Although the new constitution is a significant precondition for free and fair elections, it is not self-implementing. Deeply entrenched political interests, lack of political cohesion, biased institutional structures and elite

groups keen to maintain the status quo are some of the challenges to the implementation of the new constitution and credible elections in Zimbabwe. Notably, the GPA parties' fixation on constitutional reform resulted in the relegation of essential parallel processes such as voter registration and education and cleaning the shamolic voters' roll to the back burner.

The implementation of other key reforms outlined in the GPA critical to the conduct of democratic and peaceful elections, especially regarding the media and security sector governance, has also been neglected. The democratic structures provided for in the new constitution, such as the Zimbabwe Electoral Commission (ZEC), the Zimbabwe Human Rights Commission and the Zimbabwe Media Commission, will have to be strengthened and used correctly to ensure the credibility of the electoral process. The ZEC coped relatively well with the logistical challenges of conducting the referendum less than a month after the starting gun was fired. However, the harmonised elections will be considerably more complex than the referendum, which offered only two choices – yes or no – and a single ballot.

The cash-strapped Zimbabwe government has to ensure the timely availability of resources for the ZEC to prepare and run the forthcoming elections. The constitutional provision on the nonpartisan conduct of security forces also needs to come into effect before the polls, with some service chiefs having vowed not to respect the electoral outcome if Mugabe does not emerge as the winner. Implementing the new constitution and the election plan, which still needs to be drawn up by the three governing parties and endorsed by SADC, will be an uphill task, requiring political goodwill and commitment. Given the tortuous road to the new constitution, the development and implementation of a clear roadmap may be protracted, making the mooted June 2013 election timeframe too optimistic.

It is possible that the parties could still haggle over critical fundamentals such as the harmonisation of old laws like the Public Order and Security Act and Access to Information and Protection of Privacy Act with the new constitution, the 'operationalisation of effective and professional institutions to run the polls, and the implementation of mechanisms to prevent or handle electoral violence and intimidation'.<sup>14</sup>

## POSSIBLE TRAJECTORIES

Significantly, the lack of regular and credible opinion polls makes establishing a political bellwether and predicting Zimbabwe's election outcome a difficult task. According to the Freedom House survey of 2012 – 'Change and "new" politics in Zimbabwe' – of the 53 per cent of respondents who declared their political party preference, 20 per cent said they would support the MDC-T (down from 38 per cent in 2010) and 31 per cent ZANU-PF (up from 17 per cent in 2010).<sup>15</sup> The two parties are the major electoral contenders and would certainly have derived lessons from the study, making the post-referendum election campaign period critical.

There are, however, five probable trajectories – the first three being the more likely – that the expectedly closely contested elections can take. First, ZANU-PF could win, most likely by a small margin. The political old guard would continue to rule and the interests of the securocrats would be protected. The elected ZANU-PF government would implement some reforms to shed its pariah status on the international stage. The nature of the reforms would depend on the intra-party succession battles pitching hardliners against moderates. The international community would be expected to respect the outcome (notwithstanding its antagonistic relationship with Mugabe and ZANU-PF), remove all remaining targeted restrictive measures against Zimbabwe and assist the country on its path to socioeconomic recovery.

Second, should MDC-T win, SADC and the AU may have to guarantee a peaceful transfer of political power amid possible reluctance by ZANU-PF hardliners to accept the election results. The security service chiefs and other ZANU-PF officials are averse to an MDC-T victory, which they fear would both efface the role of the liberation struggle in the birth of the country and immerse them in economic and political uncertainty. Such a scenario could also raise concerns among other former liberation movements that have assumed power in Southern Africa.

Third, if neither party secures the votes necessary for a clear victory, the country may see a repeat of the 2008 process. The role of smaller parties like Mavambo/Khusile/Dawn (MKD) and the Zimbabwe African Peoples Union, which are not parties to the GPA, would be significant in determining the final outcome, as the result of the 2008 presidential elections that necessitated the run-off poll showed. In this case there may be new power-sharing agreements and a new SADC mediation process – a scenario that sees Zimbabwe not making any political progress at all given the current policy coordination paralysis of the unwieldy coalition government. This third scenario is thus a highly undesirable outcome.

Fourth, the MDC-T and ZANU-PF may agree to a constitutional amendment to allow a split election, whereby the parliamentary election, which could probably proceed with less tension than the presidential election, would be held this year.<sup>16</sup> The presidential poll would then be deferred. The constitutional amendment would maintain the current structure of the executive leadership, with a President, two Vice Presidents, Prime Minister and two Deputy Prime Ministers.

Fifth, Zimbabweans could heed MKD leader Simba Makoni's call for the formation of a grand coalition of change with like-minded political parties and individuals that would support a consensus presidential candidate.<sup>17</sup> The united front among political leaders would prevent the fragmentation of the vote and an associated inconclusive election outcome that would lead to the formation of yet another unwieldy coalition government. However, Makoni might find it difficult to convince political actors to join hands as he is regarded as a political lightweight in a context where the MDC-T and ZANU-PF remain the two major political powers and are intent on establishing political hegemony in Zimbabwe.

## NOTES

1. See Global Political Agreement, 15 September 2008, Harare.
2. Assembly/AU/Res.1 (XI) Resolution on Zimbabwe, Adopted at the 11th Ordinary Session of the African Union Assembly, 1 July 2008, Sharm El Sheikh, Egypt.
3. For a detailed assessment of the acrimonious and protracted constitution-making process see GA Dzinesa, *Zimbabwe's Tortuous Road To A New Constitution and Elections*, ISS Situation Report, 17 August 2012.
4. The referendum results were gazetted in General Notice 201A/2013.
5. GA Dzinesa, The battle for credible polls in Zimbabwe intensifies, *ISS Today*, 17 April 2013.
6. See SADC Election Observation Mission to the Republic of Zimbabwe Statement and Communiqué of the SADC-EU Ministerial Political Dialogue, 20 March 2013, Maputo, Mozambique.
7. See J Smith-Höhn, *Zimbabwe: Are Targeted Sanctions Smart Enough? On the Efficacy of International Restrictive Measures*, ISS Situation Report, 4 June 2010; and J Smith-Höhn, *Zimbabwe: From global (dis)agreement to free and fair elections? Considering scenarios for Zimbabwe*, ISS Policy Brief No. 21, 8 December 2010.
8. European Union EU13-136EN, EU Declaration with regard to successful Constitutional referendum in Zimbabwe and the review of EU restrictive measures, 25 March 2013.
9. United States Embassy, US embassy statement on lifting sanctions on two Zimbabwean banks, 26 April 2013.
10. Only friendly countries will observe electoral processes: Mumbengegwi, *The Herald*, 4 March 2013.
11. See European Union EU13-136EN and Ambassador David Bruce Wharton (US Ambassador to Zimbabwe), US will recognise victors of credible polls, *Foreign Affairs* (29 April 2013).
12. See United Nations Development Programme, Update on Government Request for Electoral Assistance, 16 April 2013.
13. P. Zamchiya, Pre-Election Detectors: ZANU PF's attempt to re-claim political hegemony, Johannesburg: Crisis in Zimbabwe Coalition, 2013, 2, 16 and 24.
14. GA Dzinesa, Forecasting Zimbabwe's political landscape, *ISS Today*, 8 February 2013.
15. Freedom House, Change and 'New' Politics in Zimbabwe, 18 August 2012.
16. Zimbabwe Heading Towards a Split Election? *Financial Gazette*, 12 April 2013.
17. Makoni invites Mugabe into coalition, *NewsDay*, 25 April 2013.

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