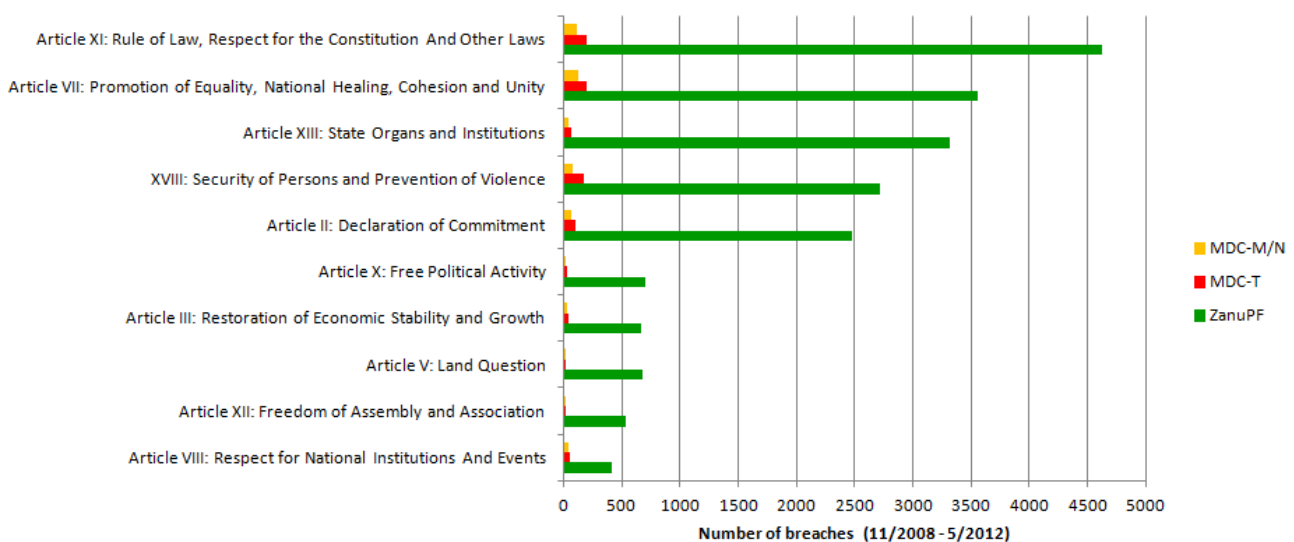


ZIMBABWE INCLUSIVE GOVERNMENT WATCH: THE MOST BREACHED CLAUSES OF THE GLOBAL POLITICAL AGREEMENT

SOKWANELE - 16 DECEMBER 2012



Zimbabwe's controversial power-sharing Agreement, termed the "Global Political Agreement" (GPA), was signed by President Mugabe's ZANU PF party and the two Movement for Democratic Change formations – led by Morgan Tsvangirai (MDC-T) and Arthur Mutambara (MDC-M) respectively – on September 15, 2008 in Harare.

The objective of the South African-mediated Agreement was to *"create a genuine, viable, permanent, sustainable and nationally acceptable solution to the Zimbabwe situation."* Integral to this was the restoration of democracy and the garnering of international support to revive the country's collapsed economy.

Commenting on the negotiations, Tsvangirai stressed at the inception: *"This is not about power sharing. It is about a return to democracy."* He made it clear that the MDC-T was not prepared to agree to anything which *did not* restore democracy and the rule of law.

On the other side of the coin, *"Mugabe could not agree to anything which did"*, wrote Derek Matyszak of the Research and Advocacy Unit (RAU) in his report: "Losing Focus: Zimbabwe's 'Power-Sharing' Agreement", released in October 2008.

Matyszak noted that: *“The brutal campaign instigated by Mugabe’s supporters to reverse his electoral defeat in the March 29, 2008 election (violated) all democratic requirements for a free and fair election. Even the ZANU PF government’s invited observers.... were constrained to report that the run-off presidential election of June 27, 2008 (from which Tsvangirai was forced to withdraw to protect the lives and safety of MDC politicians, activists and supporters) did not reflect the will of the people.”*¹

*“This created a crisis of legitimacy for Mugabe and an embarrassing difficulty for SADC² ... To solve the problem, Mbeki³ was mandated to try to gain an accommodation between the two parties.”*⁴

The result of the frequently deadlocked and increasingly acrimonious negotiations was a 22-page Agreement comprising 25 Articles. It is against these Articles that Sokwanele’s “Zimbabwe Inclusive Government (ZIG) Watch” has monitored violations of the GPA by the three partners.

Matyszak’s criticisms of the GPA Articles are well founded. He noted that: *“The manner in which the Agreement (was) drafted sends shudders down any self-respecting lawyer’s spine, from its very layout to its imprecise language, ambiguous and lacunae⁵-riddled articles.”*⁶ He warned that *“... even if the Agreement is implemented, it will not ‘work’ since (it) lacks any Articles which can serve as instruments to bring this about. The bulk of the 15-page Agreement comprises pious statements devoid of any practical consequence and which are little more than political posturing....”*⁷

“No adjudicating body is established with the power to determine whether there has been adherence to these undertakings and which can give binding orders to ensure compliance. Instead we simply have an agreement that Mbeki, SADC and the African Union (AU) shall ‘guarantee and underwrite the Agreement’.... (and with no suggestion as to how it should be done) and an

¹ Derek Matyszak, ‘Losing Focus: Zimbabwe’s “Power-sharing” Agreement’, pg 1, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

² SADC: The Southern African Development Community

³ The South African President at the time, Thabo Mbeki

⁴ Derek Matyszak, ‘Losing Focus: Zimbabwe’s “Power-sharing” Agreement’, pg 1, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

⁵ Gaps or missing parts

⁶ Derek Matyszak, ‘Losing Focus: Zimbabwe’s “Power-sharing” Agreement’, pg 2, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

⁷ Derek Matyszak, ‘Losing Focus: Zimbabwe’s “Power-sharing” Agreement’, pg 3, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

*'Implementation Committee' with the power merely to assess the implementation of the Agreement from time to time and consider steps which might need to be taken to ensure the speedy and full implementation of this Agreement in its entirety. (This is) hardly an adequate mechanism to determine and remedy any breach.'*⁸

DEMOCRATIC SPACE CLOSED DUE TO MUGABE'S RETENTION OF MILITARY, MILITIA AND PARTISAN POLICE

Commentating on the haggling over the division of Ministries, Matyszak wrote: *"Even if the MDC gained all of these portfolios, the effect on the restoration of democracy would be limited. Mugabe has closed democratic space through deployment of the military, the militia and a partisan police force which is both unwilling to act against human rights abuses and crimes against humanity as well as a participant in such offences. An extensive web of patronage keeps this system in place. No matter how many Ministries are allocated, this modus operandi will be largely unaffected."*⁹

In a paper on power-sharing, transitional governments and the role of mediation, published in 2008 by the Centre for Human Dialogue, author Katia Papagianni commented: *"Power-sharing among former enemies is difficult to manage and potentially conflict provoking.... The international community often underestimates the need for third-party political engagement during transitional periods."*¹⁰

Dr Philani Moyo, a lecturer in the Department of Sociology and Industrial Sociology at the University of Ford Hare in South Africa, published an abstract in 2009 titled: *"Zimbabwe's Negotiated Inclusive Government: Is it a Messy Power-Sharing Experiment or a Positive Step Towards Democratisation."*¹¹

In the introduction, Dr Moyo questioned whether *"such a negotiated Inclusive Government which accommodates President Mugabe – who lost the first round of the last presidential elections - as*

⁸ Derek Matyszak, 'Losing Focus: Zimbabwe's "Power-sharing" Agreement', pg 4, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

⁹ Derek Matyszak, 'Losing Focus: Zimbabwe's "Power-sharing" Agreement', pg 8, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

¹⁰ Katia Papagianni, 'Power-sharing, Transitional Governments and the Role of Mediation', pg 1 of Summary, Centre for Human Dialogue, 2008: <http://www.hdcentre.org/files/Katia%20Papagianni%20Power%20Sharing%20WEB.pdf>

¹¹ Dr Philani Moyo, 'Zimbabwe's Negotiated Inclusive Government: Is it a Messy Power-sharing Experiment or a Positive Step Towards Democratisation?', pg 1, Netherlands Institute for Multiparty Democracy, 2009: http://www.nimd.org/documents/Z/zimbabwe_s_negotiated_inclusive_government_-_is_it_a_messy_power-sharing_experiment_or_a_positive_step_towards_democratization.pdf

head of state is a good precedent for Sub-Saharan Africa or an affront to democracy as it encourages losing incumbents to reclaim power through undemocratic and often violent means.”¹²

“This negotiated political settlement was reached after the country had gone through almost a decade of ZANU PF dictatorial rule characterised by economic decline, media repression, human rights violations, political violence, abductions, arrests, torture and murder of opposition politicians and activists,”¹³ Dr Moyo wrote.

THE CONSTITUTIONAL PROCESS

In a document titled: *“Towards Another Stalemate in Zimbabwe?”¹⁴*, released in October 2012, Brian Raftopoulos, Head of Research and Advocacy at The Solidarity Peace Trust, wrote:

“At almost every stage of the mediation from 2007 and the implementation of the GPA from February 2009, intense conflicts over the interpretation of the accord have left their debris on the political terrain, at the heart of which has been the struggle over the meaning of ‘sovereignty’. Around this notion ZANU PF in particular has woven dense layers of political discourse combined with the coercive force of the State that it continues to control. The major aim of this strategy has been to manipulate and stall the reform provisions in the GPA, and to regroup and reconfigure its political resources after plunging to the nadir of its legitimacy in the 2008 electoral defeat.”¹⁵

Commenting on the Constitutional Process, Raftopoulos said:

¹² Dr Philani Moyo, ‘Zimbabwe’s Negotiated Inclusive Government: Is it a Messy Power-Sharing Experiment or a Positive Step Towards Democratisation?’, pg 1, Netherlands Institute for Multiparty Democracy, 2009:

http://www.nimd.org/documents/Z/zimbabwe_s_negotiated_inclusive_government_-_is_it_a_messy_power-sharing_experiment_or_a_positive_step_towards_democratization.pdf

¹³ Dr Philani Moyo, ‘Zimbabwe’s Negotiated Inclusive Government: Is it a Messy Power-Sharing Experiment or a Positive Step Towards Democratisation?’, pg 1, Netherlands Institute for Multiparty Democracy, 2009:

http://www.nimd.org/documents/Z/zimbabwe_s_negotiated_inclusive_government_-_is_it_a_messy_power-sharing_experiment_or_a_positive_step_towards_democratization.pdf

¹⁴ Brian Raftopoulos, ‘Zimbabwe Update No.5. October 2012: Towards another stalemate in Zimbabwe?’, Solidarity Peace Trust, 22 Oct 2012: <http://www.solidaritypeacetrust.org/1243/towards-another-stalemate-in-zimbabwe/>

¹⁵ Brian Raftopoulos, ‘Zimbabwe Update No.5. October 2012: Towards another stalemate in Zimbabwe?’, pg 1, Solidarity Peace Trust, 22 Oct 2012: <http://www.solidaritypeacetrust.org/1243/towards-another-stalemate-in-zimbabwe/>

“Between 2009 and the present an important area of contestation between the Zimbabwean parties has been the struggle for constitutional reform. Article VI of the GPA set out the ‘fundamental right and duty of the Zimbabwean people to make a constitution for themselves’, also stipulating that the process would be carried out by a Select Committee of Parliament composed of the parties to the Agreement....”¹⁶

“On the signing of the GPA, constitutional reform drew the parties into a protracted political battle. After three years of delays, obstructions, logistical and financial squabbles, and a problematic outreach programme, a draft constitution was produced through the Parliamentary Select Committee process (COPAC), in July 2012. While the COPAC draft is clearly a compromise document it contains some important changes such as controls on executive power, accountability of the security and judicial services, a more independent national prosecuting authority, devolution of power and citizenship rights. Importantly, in terms of process, all the parties to the Agreement were signatories to the draft, leading to the logical assumption that at all times the Principals of the parties and their respective leaderships were fully informed of the discussions of the COPAC team.

“However in a move that replicated previous interventions to block constitutional reform and eschew its commitment to the GPA, ZANU PF once again initiated a strategy intended to foil a process that has the potential to unravel its political hegemony in the country.

Raftopoulos continued: “In August 2012 President Mugabe presented the leaders of the MDC formations with a ZANU PF re-draft of the COPAC draft, on the grounds that the latter was drafted in opposition to the ‘views of the people’ gathered during the outreach process. This re-draft, described by ZANU PF as ‘non-negotiable’ attempted to undo the COPAC process, undermine the GPA, and once again force the Zimbabwean citizenry into a national election without a new constitution. Moreover the re-draft effectively dismissed the major reforms included in the draft and proposed a return to the kind of executive powers and party/State rule that ZANU PF has crafted since 1980. Both MDC formations objected strongly to the ZANU PF position. After weeks of political haggling the parties, under pressure from the SADC facilitation team, agreed to take the COPAC draft to an All- Stakeholders Conference to be held from 21-23rd October.”¹⁷

¹⁶ Brian Raftopoulos, ‘Zimbabwe Update No.5. October 2012: Towards another stalemate in Zimbabwe?’, pg 1, Solidarity Peace Trust, 22 Oct 2012: <http://www.solidaritypeacetrust.org/1243/towards-another-stalemate-in-zimbabwe/>

¹⁷ Brian Raftopoulos, ‘Zimbabwe Update No.5. October 2012: Towards another stalemate in Zimbabwe?’, pg 2, Solidarity Peace Trust, 22 Oct 2012: <http://www.solidaritypeacetrust.org/1243/towards-another-stalemate-in-zimbabwe/>

ZIG WATCH: MONITORING VIOLATIONS OF THE GPA

ZIG Watch, which has monitored violations of the GPA since its inception, demonstrates conclusively that, throughout the four years during which the Global Political Agreement has been operational, President Mugabe and the ZANU PF hierarchy have continued to employ the strategies listed earlier by Dr Moyo in order to retain supremacy in the transitional government and neutralise its partners: *media repression, human rights*

violations, political violence, abductions, arrests, torture and murder of opposition politicians and activists. Furthermore, with another election on the cards for next year, ZANU PF is intensifying the onslaught ruthlessly to ensure not only its political survival but an election victory.

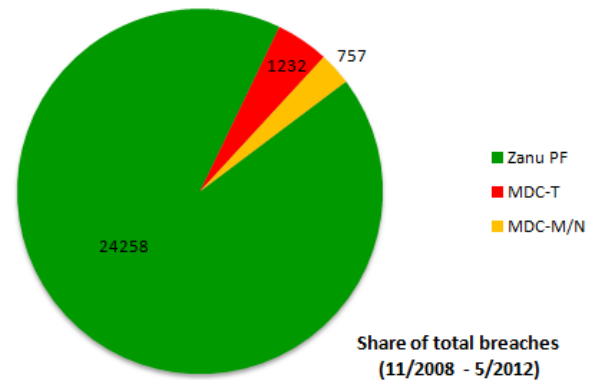
The way that ZIG Watch was set up was this: On a daily basis, we tracked media articles and reports which provided examples of violations of the GPA by Zimbabwe's three main political parties, the partners in the GPA. These were logged on our website and below each we listed the GPA Articles that had been violated.

To view this resource, log onto: <http://www.sokwanele.com/zigwatch>

In our first issue, released on December 10, 2008 (Human Rights Day), we expressed concern that President Mugabe's party had capitalised on flaws in the Agreement, such as the fact that it did not specify who would draft Constitution Amendment No. 19. Consequently, this was drafted *without consultation* by ZANU PF.

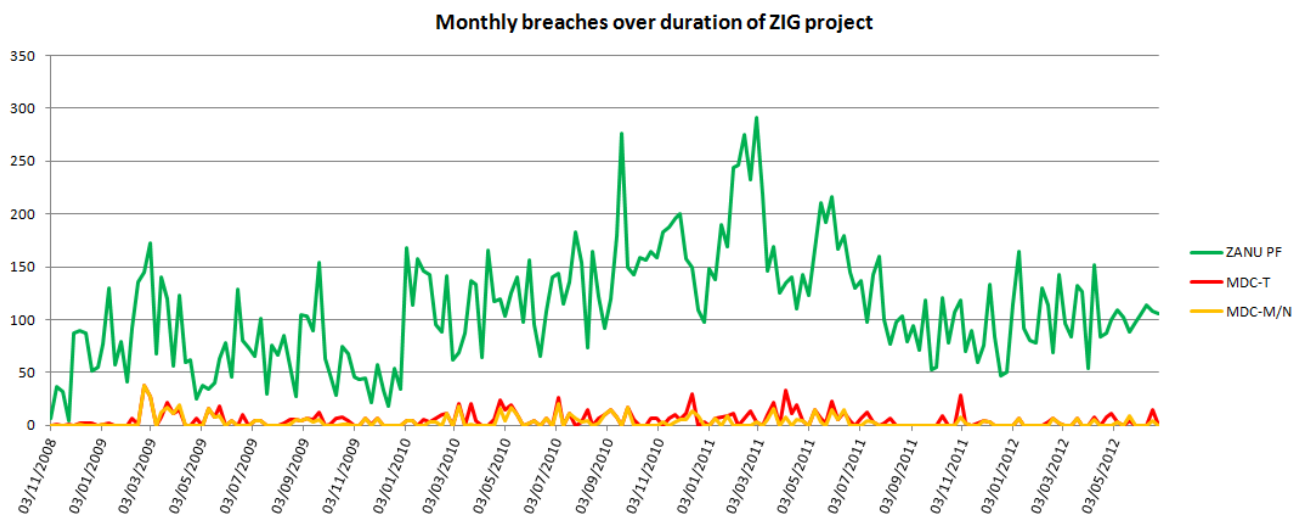
We also pointed out the commitments made by the principals of the three parties when they signed the power-sharing document¹⁸, which included:

- *Dedicating ourselves to putting our people and the country first by arresting the fall in living standards and reversing the decline of the economy.*
- *Building a society free of violence, intimidation, hatred, patronage, corruption and founded on justice, fairness, openness, transparency, dignity and equality.*



¹⁸ Global Political Agreement Document: <http://www.sokwanele.com/zigwatch> Select tab "View GPA"

Clearly, President Mugabe had no intention of fulfilling the commitments he made. The media articles and reports we have logged demonstrate ongoing, flagrant violations of the Agreement, the overwhelming majority of which were perpetrated by ZANU PF.



For each media story logged, we listed the GPA Article/Articles that had been breached. In some instances, only one Article was breached, as was the case in November 2008 when the MDC formally rejected a ruling by regional (SADC) leaders that compelled both ZANU PF and the MDC to share responsibility over the Ministry of Home Affairs. The MDC noted that all of the party's concerns had yet to be addressed. The Article breached was Article II: Declaration of Commitment.

In the case of hordes of ZANU PF supporters who went berserk inside Parliament during July 2011 and beat up an MDC legislator and five journalists in order to disrupt a public hearing by a parliamentary committee – ironically on the Human Rights Bill - six Articles were breached. They included Article XI: The Rule of Law, Respect for the Constitution and Other Laws, and Article XVIII: Security of Persons and Prevention of Violence.

In our final issue, No. 41, published on July 30, 2012 we listed the percentage of breaches for the month as follows: ZANU PF: 92%; MDC-T: 5% and MDC-M: 3%. For the entire monitoring period, ZANU PF's highest percentage was 98% and the lowest was 86.4%. The MDC-T was 7.1% and 1.4%, while the MDC-Mutambara/Ncube¹⁹ was 6.5% and 0.26%.

This report analyses the Top 10 GPA Articles breached by the coalition parties throughout the monitoring period. The list starts with the highest number of breaches we recorded and gives the total number of breaches in brackets. Our report concentrates on the top five Articles for which

¹⁹ Prof Welshman Ncube took over the leadership of the MDC-M from Prof Arthur Mutambara in January 2011

the majority of violations were recorded and gives a cross-section of violations of the remaining five.

1. **ARTICLE XI** : RULE OF LAW, RESPECT FOR THE CONSTITUTION AND OTHER LAWS (4,672 breaches)
2. **ARTICLE VII** : PROMOTION OF EQUALITY, NATIONAL HEALING, COHESION AND UNITY (3,588 breaches)
3. **ARTICLE XIII** : STATE ORGANS AND INSTITUTIONS (3,320 breaches)
4. **ARTICLE XVIII** : SECURITY OF PERSONS AND PREVENTION OF VIOLENCE (2,754 breaches)
5. **ARTICLE II**: DECLARATION OF COMMITMENT (2,482 breaches)
6. **ARTICLE X** : FREE POLITICAL ACTIVITY (707 breaches)
7. **ARTICLE V**: LAND QUESTION (671 breaches)
8. **ARTICLE III** : RESTORATION OF ECONOMIC STABILITY AND GROWTH (666 breaches)
9. **ARTICLE XII** : FREEDOM OF ASSEMBLY AND ASSOCIATION (541 breaches)
10. **ARTICLE VIII** : RESPECT FOR NATIONAL INSTITUTIONS AND EVENTS (418 breaches)

Please note that, because Article VI of the GPA, The Constitution, does not fall into the top ten category, it is referred to but not analysed in detail in this report.

Our ZIG Watch overview closes with extracts from a recent analysis of the GPA by the Crisis in Zimbabwe Coalition: “Zimbabwe Transition Barometer – ‘Trekking the Transition’”²⁰, published in October 2012.

²⁰ Crisis in Zimbabwe Coalition, ‘Zimbabwe Transition Barometer – Trekking the Transition’, OSISA, October 2012: <http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

1) ARTICLE XI : RULE OF LAW, RESPECT FOR THE CONSTITUTION AND OTHER LAWS (4,672 BREACHES)

ARTICLE XI (Highest number of recorded breaches: 4,672)

RULE OF LAW, RESPECT FOR THE CONSTITUTION AND OTHER LAWS

11. Rule of law, respect for the Constitution and other laws

11.1 The Parties hereby agree that it is the duty of all political parties and individuals to:

- (a) respect and uphold the Constitution and other laws of the land;
- (b) adhere to the principles of the Rule of Law.

The “*rule of law*” refers to a state of constitutionalism where the law (not Parliament) is supreme and where all government power is subject to the law. It is the antithesis of authoritarianism, and it provides that individuals’ rights may only be interfered with to the extent authorised by law.

Since 2000, the “*rule of law*” in Zimbabwe has been replaced with “*rule by law*”. This refers to a police state in which government invokes the law – and in Zimbabwe’s case has actually *created* law – to ‘justify’ excessive use of government force.

The following examples demonstrate violations of the rule of law throughout the monitoring period.

Two months after the signing of the GPA, Zimbabwe Lawyers for Human Rights (ZLHR) issued a statement dated November 20, 2008, to protest about the selective and arbitrary arrest of MDC supporters in Mashonaland West province, including a mother and two-year-old daughter. When ZLHR attempted to access their clients, they were “wilfully denied access”. ZLHR noted that “This unlawful conduct makes a mockery of Article II.I of the GPA signed by the political parties urging everyone – including the police – to respect the rule of law and fundamental human rights.”

The following month, on December 3, 2008 riot police used force to break up peaceful protests by the Zimbabwe Congress of Trade Unions (ZCTU). They also clamped down on a demonstration by doctors and nurses. Jestina Mukoko, Director of the human rights group the Zimbabwe Peace Project (ZPP), was abducted from her home in the early hours of the morning. Six members of the Progressive Teachers’ Union of Zimbabwe (PTUZ), together with the union’s Secretary General, Raymond Majongwe, were arrested. Ten people in Harare were heavily assaulted by the police.

VOA New reported on December 31, 2008 that State Security Minister Didymus Mutasa had signed an affidavit to the effect that the seizures/abductions of dozens of MDC members in recent months had been *officially sanctioned*.

On January 4, 2009 Independent Online (South Africa) reported that horror stories were emerging from Chikurubi Maximum Security Prison where at least 16 human rights activists were being held. The youngest prisoner, Nigel Mupfuranhehwe, a two-year-old who had been abducted with his parents, had been beaten by security agents and needed medical attention.

A week later, on January 14, 2009 the Zimbabwe Times reported that President Mugabe's newly appointed Attorney General, Johannes Tomana, had said he would proceed with the prosecution of all commercial farmers who had acted in breach of the government's order to vacate "gazetted land". This was in spite of a November 2008 ruling by the regional court of the SADC Tribunal barring government from continuing with its eviction of the farmers in question.

Prior to and throughout the operational period of the GPA, ZANU PF has continued on an illegal path of self-enrichment. On January 24, 2009 ZimEye reported that a ZANU PF-controlled food taskforce had plundered thousands of tons of mealie-meal (corn) and maize in Bulawayo using a group of helpless millers to swindle the Grain Marketing Board (GMB).

It was reported on February 16, 2009 that Police Commissioner Augustine Chihuri had ordered the police to drop all cases relating to murders committed during the run-up to the June 2008 presidential election. SW Radio Africa noted: *"The beneficiaries, if granted, will be ZANU PF supporters who unleashed a reign of terror in the country during the election period last year."*

Procedural problems with Constitutional Amendment No. 19 were highlighted on March 1, 2009 by Veritas, an organisation which monitors legal and parliamentary issues. *"(It needs to be considered) whether or not the gazetted Constitution of Zimbabwe Amendment (No. 19) Act truly reflects the Bill that was passed by Parliament,"* Veritas wrote. *"The gazetted Act does not contain all the Schedules that were in the Bill.... The President has appointed and sworn in more Ministers [41] and Deputy Ministers [20] than are permitted by the Constitution as amended by Amendment No. 19..."*

In August 2009, President Mugabe signed a doctored version of Constitutional Amendment No. 19 which, ZimEye noted on August 22: *"might jeopardise the constitutional referendum expected the following year. According to Zimbabwe Lawyers for Human Rights (ZLHR), the version approved by Parliament had been whittled down from 36 pages to only 18. ZLHR said the important changes were the removal of two clauses linked to the current constitution-writing process. 'In the absence of these clauses being enacted into law, control of any future referendums remains legally vested with the President'."*

In the wake of international condemnation of the disgraceful and inhumane conditions prevalent in Zimbabwe's jails, three prison officers suspected of assisting investigative reporters from the South African Broadcasting Corporation's Special Assignment team were arrested. The Zimbabwe Standard reported on April 4, 2009 that Justice Minister Patrick Chinamasa was quoted as saying

the documentary, which shocked many Zimbabweans due to its horrifying pictures of gravely ill, starving inmates, was “a fraud”.

Later that month, on April 27, 2009 SW Radio Africa published an article about a Chegutu farm worker who had been wounded after police had opened fire on Stockdale citrus farm the previous week. He had been arrested and was being held and questioned by the police. The farm worker and a colleague had both been struck in the legs when police fired random shots at the vehicle in which the workers were travelling. The farm had been forcibly taken over by the President of the Senate, Edna Madzongwe. Two weeks earlier, a man who had been caught stealing oranges, allegedly by farm guards working for Ms Madzongwe, had been tortured to death. No arrests had been made.

During May 2009, a prominent human rights lawyer, Alec Muchadehama, who was representing three MDC detainees, was arrested and accused of “obstructing the course of justice”. On May 14, SW Radio Africa reported that Muchadehama had been accused of “conniving with a judge’s clerk” to get bail orders filed which eventually led to the release of his three clients. At the time, the clerk to the High Court was being held in remand prison with her nine-month-old baby.

That same month, shocking footage was released showing police recruits being beaten in a series of “sickening” assaults, apparently by their instructors. In a SW Radio Africa report dated May 29, 2009 the journalist wrote that a recruit could be heard screaming while one officer shouted “wuraya” (kill him). Other officers were also heard shouting “castrate him” and “step on his throat”. The point was made that, if this treatment – or worse – was what police recruits would receive if they disobeyed orders, it was no wonder that they were quick to respond to civic demonstrations with violence.

On June 17, 2009, Sokwanele published a blog reporting on violence against the MDC which had occurred in eight different locations around Zimbabwe where houses of MDC members had been burnt. Police had reportedly been told to ignore the burnings in Mudzi. In Dombashawa near Harare, soldiers had beaten up MDC members, using iron bars and bayonets at random. They had operated in groups of 15 to 20, some dressed in uniform.

Prime Minister Morgan Tsvangirai lost significant credibility when he played down the severity of a wave of farm invasions in 2009 during a BBC interview on Sunday June 21. Referring to them as “isolated incidents”, he dismissed the fact that farm production had been halted. The President of the Commercial Farmers’ Union expressed great concern and said that attacks on farmers were likely to intensify as farm attacks had all but been legalised in terms of the law.

Three days after Tsvangirai’s interview, on June 24, 2009 Deputy Mining Minister Murisi Zwizwai (MDC-T) denied there had been any killings in the Marange diamond fields the previous year. He

told a Kimberley Process²¹ meeting in Namibia that the claims were the result of “unsubstantiated reports”, and that the situation had been brought under control.

The reality was that the army had been called to disperse thousands of illegal diamond miners – who had initially been invited in by the government after it had illegally seized the diamond claim from African Consolidated Resources (ACR), the legal owner of the claim. This had resulted in shocking violence. Accounts from survivors described killings, machine-gun attacks by helicopter gun ships and armed attacks by ground troops. Zimbabwe Lawyers for Human Rights said that about 5,000 people had been arrested during the operation, with three-quarters showing signs of severe torture. Furthermore, hundreds of people had been buried in mass graves and soldiers sent in to “guard” the fields had become illegal diamond dealers themselves.

By July 9, 2009 the much-reviled Nathaniel Manheru column had returned to the State-owned, ZANU PF mouthpiece, the Herald newspaper, after being initially banished by the Inclusive Government for “promoting hate speech”. ZANU PF sources said there were plans to bring the column back permanently in open defiance of the Joint Monitoring and Implementation Committee (JOMIC).²²

Also in July 2009, there was drama when ZANU PF thugs disrupted an all-stakeholders conference in Harare, hurling abuse at the Speaker of Parliament, Lovemore Moyo (MDC-T), and causing chaos aimed at derailing the democratic constitution-making process. Police stood by as the thugs pelted delegates with plastic bottles of water and an MDC councillor sustained head injuries after being assaulted. The meeting was eventually abandoned.

President Mugabe went on to demonstrate ZANU PF’s defiance of the SADC Tribunal rulings against his government with regards to the land invasions and gross human rights abuses. SW Radio Africa reported on September 2, 2009 that Justice Minister Patrick Chinamasa (ZANU PF) had announced Zimbabwe was pulling out of the SADC Tribunal, claiming the highly respected regional court had not been properly constituted.

Four days later, on September 6, 2009 Radio VOP reported that the State-owned media had increased its onslaught on Tsvangirai, with journalists at Zimbabwe Broadcast Holdings complaining they were being continuously forced to denounce the Prime Minister ahead of the SADC Summit in

²¹ The Kimberley Process (KP) is a joint governments, industry and civil society initiative to stem the flow of conflict diamonds.

²² The Joint Monitoring and Implementation Committee (JOMIC) was set up as the principal body dealing with the issues of compliance and monitoring of the Global Political Agreement.

the Democratic Republic of Congo (DRC). Tsvangirai's spokesperson said the move by State media was against the spirit of the GPA.

A year on, journalists were facing a more serious threat. In December 2010, ZANU PF's new chairman, Simon Khaya-Moyo, Zimbabwe's former ambassador to South Africa, urged security forces to crush journalists who criticised them. The Zimbabwe Mail reported on December 7 that Khaya-Moyo had warned journalists: *"In some countries if you criticise security forces you won't last a day – you will be crushed, killed and destroyed...."*

Similar examples of violations of the rule of law outlined so far occurred throughout 2010 and 2011 as ZANU PF used every strategy in its arsenal to control power. This included ongoing manipulation of the new Constitution drafting process, which continued to be hijacked by President Mugabe's party.

On April 16, 2010 The Zimbabwean newspaper reported that, as the end of the drafting process drew nearer, ZANU PF had coined another operation – "Operation Hapana Anotaura", meant to stop people in remote parts of the country from participating in the decision-making. The newspaper noted there had been a huge rise in cases of intimidation and violence since late 2009, with former ruling party supporters on the rampage. The objective was to make people endorse the Kariba Draft constitution which Mugabe favours.

Ironically on Armistice Day, November 11, 2010 Radio VOP reported that a beheading operation had been planned to terrorise villagers. *"ZANU PF has launched Operation 'headless chicken' which will see people being beheaded if they sympathise with the MDC in the elections planned of next year. A senior ZANU PF official, wanting to remain anonymous, told VOP that 'supporters of the puppet MDC party will be beheaded and their families will be handed over the body – without the head – for burial. 'We are at the moment identifying youths who will from next month go to Harare to receive military training about this.....'"*

Villagers in Hurungwe, north of Harare, were warned at the beginning of December 2010 that election time would be a time for war and a lot of blood would be spilt. Radio VOP noted on December 1 that a former Kariba MP had told villagers that *"ZANU PF will rule forever. Election is a declaration of war against the party.... We will establish bases a few days before elections to deal with those against ZANU PF, even if it means killing them."*

It is of great concern that those responsible for brutal murders during the 2008 elections remain free. On May 14, 2012 SW Radio Africa reported that the MDC-T Youth Assembly Secretary-General, Promise Mkwanzani, had disclosed that the people who killed MDC-T activist Tonderai Ndira – and who are known to the party – remain free. Worse still, they continue to brag about the heinous crime. Ndira was abducted by 10 armed men on May 13, 2008, but his body was only found a month later. He had been shot in the heart, had multiple stab wounds, his eyes had been gouged out, his tongue cut off and his neck, skull, jaw and knuckles broken.

In a move that was described by political analyst Charles Mangongera as “chilling”, VOA News reported on February 9, 2011 that President Mugabe’s campaign for re-election had been outsourced to the country’s military. The article warned that recently retired, as well as serving military officers had been brought on board for *“what is likely to be an extremely violent campaign”*.

At the time of publication of this document, an election date has yet to be set, although President Mugabe is pushing hard for March 2013. Already intimidation of perceived enemies by ZANU PF activists and State agents loyal to Mugabe has intensified as the country heads towards a year in which, according to the GPA, elections are due to be held.

2) ARTICLE VII : PROMOTION OF EQUALITY, NATIONAL HEALING, COHESION AND UNITY (3,588 BREACHES)

ARTICLE VII (Second highest number of recorded breaches: 3,588)

PROMOTION OF EQUALITY, NATIONAL HEALING, COHESION AND UNITY

7. Equality, National Healing, Cohesion and Unity

7.1 The Parties hereby agree that the new Government:

- a) will ensure equal treatment of all regardless of gender, race, ethnicity, place of origin and will work towards equal access to development for all;
- b) will ensure equal and fair development of all regions of the country and in particular to correct historical imbalances in the development of regions;
- c) shall give consideration to the setting up of a mechanism to properly advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity in respect of victims of pre and post independence political conflicts; and
- d) will strive to create an environment of tolerance and respect among Zimbabweans and that all citizens are treated with dignity and decency irrespective of age, gender, race, ethnicity, place of origin or political affiliation.
- e) will formulate policies and put measures in place to attract the return and repatriation of all Zimbabweans in the Diaspora and in particular will work towards the return of all skilled personnel.

National healing in Zimbabwe is fraught with difficulties. The country has a long and contentious history that has not been resolved and has been further exacerbated by ZANU PF’s brutal and relentless post-2000 power struggle. A pastoral letter released earlier this year by the Zimbabwe Catholic Bishops’ Conference and quoted in the Financial Gazette on July 19, 2012 noted that *“the*

conflicts which render national healing and reconciliation imperative in Zimbabwe were pre-colonial, colonial and post-colonial.”²³

“Cases in point are ethnic conflicts between the Shona and the Ndebele, and racial tension between blacks and whites during the colonial period. In post-colonial times there was the Matabeleland crisis of the 1980s (the Gukurahundi massacres inflicted by President Mugabe’s North Korean-trained 5th Brigade), violence unleashed by war veterans and youth militias in the rural and farming areas (from 2000), and political clashes in communities.”

“So the Organ on National Healing and Reconciliation formed under the Inclusive Government got saddled with a Herculean task needing the strange bedfellows of the Inclusive Government’s full support,” the Financial Gazette acknowledged in an article dated July 19, 2012.

The article went on to criticise the three parties in the Inclusive Government *“for having been at each others’ throats over the lifespan of the current government”* and said this had not helped the healing process.

The Catholic Bishops’ Conference pastoral letter stressed that Zimbabwe does not need a mere armistice but a comprehensive and honest national healing and reconciliation in which perpetrators of violence are made accountable and society is reconciled so as to bury the culture of violence. *“It should not be reserved for a few officials, it needs the whole community to be involved and must include everyone.”*

SW Radio Africa reported on September 7, 2010 that the Organ on National Healing and Reconciliation had been described as a “failure” by participants who attended a workshop in Bulawayo the previous weekend. In the organ’s defence, some commentators have said that the major issue is President Mugabe’s relentless hold on power and continued protection of ZANU PF thugs who masterminded the political violence and murder.

Describing their statistics as the “tip of the iceberg”, the Zimbabwe Human Rights NGO Forum noted in its December 2008 Political Violence Report that during 2008 alone it had recorded 107 murders, 137 abductions and kidnappings, 1,913 assault cases, 19 instances of disappearance, 629 cases of internal displacement and 2,532 violations on freedoms of association and expression. The Forum stressed that these were only the reported cases.²⁴

²³ Tinashe Madava, ‘Revisiting National Healing, Reconciliation’, Financial Gazette, 19 July 2012:

<http://www.financialgazette.co.zw/national-report/13473-revisiting-national-healing-reconciliation-.html>

²⁴ Zimbabwe Human Rights NGO Forum, ‘Political Violence Report – December 2008’, pg 2, Kubatana, Dec 2008:

http://www.kubatana.net/docs/hr/hrf_polviol_report_dec2008_090213.pdf

The following examples from ZIG Watch demonstrate the deplorable lack of commitment to Article VII of the GPA, notably on the part of ZANU PF.

On May 22, 2009 ZANU PF's contempt for the rights of prisoners came under the spotlight when it was revealed that top officials on stolen farms were utilising prisoners as labourers and remunerating them with a single bar of soap and a bottle of Vaseline for a week's work. *"These people are enslaving prisoners,"* Radio VOP was told.

Deputy Prime Minister Arthur Mutambara, leader of the smaller MDC-M faction at the time, came under attack during August 2009 for describing the Presidential run-off election of June 2008 as *"fraudulent, a nullity and a farce"*. The State-owned Zimbabwe Broadcasting Corporation (ZBC) was immediately ordered to run an anti-Mutambara story which was replicated in the State-owned Herald newspaper, Radio VOP reported.

In May 2010, both MDC factions were attacked by President Mugabe who claimed his coalition partners were *"in the same camp as the enemies of the people"*. These were his strongest comments since the signing of the GPA and appeared to have been triggered by the MDC-T's opposition to the government's disastrous indigenisation programme, NewZimbabwe.com said.

Gays and lesbians have come under relentless attack by President Mugabe, both prior to and since the formation of the transitional government.

SW Radio Africa reported on May 27, 2010 that two members of gay rights group, Gays and Lesbians of Zimbabwe (GALZ), had been finally released on bail. However, Ellen Chademana and Ignatius Muhambi, faced charges of *"insulting the office of the President"* and allegedly possessing *"pornographic material"* and were back in court on June 10. Their lawyer said that they had accused the police of torture and beatings to try and extract information about their organisation's membership.

After Justice and Legal Affairs Minister Patrick Chinamasa had concluded a meeting with UN High Commissioner for Human Rights, Navenethem Pillay, The Times (South Africa) noted his comments in an article dated May 22, 2012: *"We made it clear that in our law homosexual activities are criminalized and that any person who commits homosexual activities will be arrested,"* Chinamasa told reporters.

The distribution of food remains contentious. A violent campaign by ZANU PF against the MDC and its supporters in Matabeleland South province resulted in aid agencies pulling out of food distribution in the area during August 2010, SW Radio Africa said. Traditionally drought-prone, Matabeleland South has continuously required food aid in the wake of the chaotic land invasions.

Two months later, on December 28, 2010 Radio VOP reported that war veterans and ZANU PF youths in another drought-prone region, the Mberengwa district of Midlands province, had been

grabbing farming inputs meant for distribution to poor communal farmers. The programme was being run by Agricultural Extension Department (Agritex) officials.

Bribery is still rife and is used frequently by ZANU PF to buy the silence of perceived opponents. On April 10, 2011 award-winning human rights lawyer Beatrice Mtetwa told the Zimbabwe Standard that ZANU PF officials had tried to bribe her so that she would stop representing President Mugabe's opponents. Offers included a farm and appointments to boards of parastatals. *"I found it very interesting because the people making those offers were people I had represented when their own rights had been violated by the very system,"* Mtetwa said.

During July 2011, the Zimbabwe Standard reported that the MDC-T had been forced to abandon its district elections after violence erupted between two factions in Chinhoyi, north west of Harare. Three people were seriously injured and some of the victims filed a complaint with the police, claiming they had been attacked by two councillors.

In February 2012, a Harare court dismissed an acquittal application by a group of activists arrested the previous year for watching footage of the people's revolutions in Egypt and Tunisia. The six were among more than 40 people who had been arrested in February 2011 and charged with treason. Although the treason charges were dropped, the six were charged with "conspiracy to commit public violence" and the trial was postponed until later in the month, SW Radio Africa said.

Armed police officers raided the residence of the MDC Chief of Staff, Abisha Nyanguwo, in Harare during April 2012, claiming they were searching for weapons of war. ZimEye reported that, after searching the house and finding no weapons, they had impounded his vehicle on allegations that it had been used to bomb ZANU PF's Gweru offices in December 2011.

Our next example is one which added insult to injury, violating the GPA's stated objective of promoting national healing. During June 2012, one of the country's few female chiefs, Otilia Chimukoko, was allegedly leading ZANU PF activists in the Mudzi North area of Mashonaland East province and forcing villagers to contribute money for a legal fund to assist the ZANU PF members accused of murdering an MDC-T official the previous month, SW Radio Africa said.

Finally, Article VII of the GPA commits the parties to formulating policies and putting measures in place to attract the return and repatriation of Zimbabweans in the Diaspora, a significant proportion of whom are in South Africa. While some estimates put the figure as high as three million, the exact number is not known. What is known but has not been widely publicised is that displaced Zimbabweans, many of whom are destitute in foreign lands, have received little or no help from the Inclusive Government. Even worse, many have been continuously harassed and their lives threatened by members of the Central Intelligence Organisation despatched to host countries to monitor their activities.

There are also numerous documented cases of MDC activists who have been unable to get asylum-seeker status in South Africa and, after being held in harsh conditions in the notorious Lindela Detention Centre outside Johannesburg, have been repatriated, only to be re-arrested and tortured in Zimbabwe.

So serious is the situation that the Catholic Bishops' Conference wrote a pastoral letter addressed to Zimbabweans in the Diaspora²⁵, dated June 19, 2012, acknowledging their plight.

"..... As Church leaders and as members of society, we acknowledge, with a sense of humility and shame, that so many of our citizens no longer felt welcomed at home, and had to take flight. This experience of being unwanted has been worsened by the overall failure of political discourse within Zimbabwe to focus with serious intent on the exodus of its people. The greatest asset of any country is its own people. Very few politicians have visited border areas, or crossed borders to witness at first hand the situation of their fellow Zimbabweans.

"It is not politically expedient to acknowledge the reality of the ongoing displacement of Zimbabwean people, especially since the Global Political Agreement was signed in September 2008 and the Government of National Unity formed in February 2009. Ongoing displacement, at best, suggests political challenge; at worst, political ineptitude, division and failure. The vast majority of those who leave are seen as politically insignificant and expendable. Their only 'merit' is the remittances sent home to prop-up a severely depressed economy!

"At times of national elections this exclusion is particularly acute. While the diplomatic corps and military personnel serving overseas are free to cast their votes, the nameless Diaspora are not, as they are perceived as presenting a threat to the political status quo....."

The political ineptitude and failure of the partners in the GPA is demonstrated by the following debacle publicised in NewZimbabwe.com on December 29, 2010. The report noted that, despite Zimbabwe's inability to issue its nationals in South Africa with passports ahead of a December 31, 2010 deadline set by South Africa's Home Affairs Minister, Zimbabwe's joint Home Affairs Ministers (ZANU PF and MDC-T) had failed to take up South Africa's offer of a free passport printing press capable of printing 100,000 passports a day. South Africa had warned that after the deadline, the two-year moratorium on its controversial deportations would be lifted.

²⁵ Zimbabwe Catholic Bishops' Conference, 'Pastoral letter addressed to Zimbabweans in the Diaspora', 19 June 2012, pg 2, The Zimbabwean: <http://www.thezimbabwean.co.uk/news/zimbabwe/58996/zimbabwe-catholic-bishops-pastoral-letter.html>

3) ARTICLE XIII : STATE ORGANS AND INSTITUTIONS (3,320 BREACHES)**ARTICLE XIII (Third highest number of recorded violations: 3,320)****STATE ORGANS AND INSTITUTIONS****13. State organs and institutions**

13.1 State organs and institutions do not belong to any political party and should be impartial in the discharge of their duties.

13.2 For the purposes of ensuring that all state organs and institutions perform their duties ethically and professionally in conformity with the principles and requirements of a multi-party democratic system in which all parties are treated equally, the Parties have agreed that the following steps be taken:

(a) that there be inclusion in the training curriculum of members of the uniformed forces of the subjects on human rights, international humanitarian law and statute law so that there is greater understanding and full appreciation of their roles and duties in a multi-party democratic system;

(b) ensuring that all state organs and institutions strictly observe the principles of the Rule of Law and remain non-partisan and impartial;

(c) laws and regulations governing state organs and institutions are strictly adhered to and those violating them be penalised without fear or favour; and

(d) recruitment policies and practices are conducted in a manner that ensures that no political or other form of favouritism is practised.

The issue of security sector reform remains highly contentious. In a report²⁶ released on September 15, 2012 the fourth anniversary of the signing of the GPA, the Zimbabwe Europe Network and its National Reference Group²⁷ noted:

“Calls for reformation of the military, police services, prison services, the State intelligence services²⁸ and other critical arms of the security sector have gone without anyone giving audience to them.

²⁶ Zimbabwe Europe Network, 'Zimbabwe's GPA implementation: 4 years on at best faltering... at worst failing...', Zimbabwe Europe Network, pg 9, 15 September, 2012:

<http://www.zimbabweeurope.org/sites/default/files/ZIMBABWE%20GPA%20IMPLEMENTTION.pdf>

²⁷ Crisis in Zimbabwe Coalition, National Association of Non Governmental Organisations (NANGO), Zimbabwe Human Rights NGO Forum and Zimbabwe Congress of Trade Unions (ZCTU)

²⁸ The Central Intelligence Organisation (CIO)

Despite clear provisions in Article XIII of the GPA which stipulate that ‘State organs and institutions do not belong to any party and should be impartial in the discharge of their duties’, senior top ranking military personnel have been quoted on several occasions openly supporting ZANU PF and vowing to enable it to stay in power forever, while clothed in uniform and on official duty. The case is similar with the police and prison services, which have gone on a rampant derelict of duty to openly declare their political interests and positions while on duty.”

The report went on to note: *“Calls by SADC to expedite the process of security sector reform have largely been ignored and instead invited criticism by those that claim the purity of their actions in the name of sovereignty. The calls for security sector reform were made based on previous and current experiences where the security services are operating at the service of ZANU PF, one political party, mandated to facilitate State oppression of the people. Soldiers together with ZANU PF supporters in July 2012 disrupted a political party rally by the MDC in Darwendale. The Justice Minister was quoted as saying that ‘it was the constitutional right of soldiers to participate in politics’, all this in contravention of GPA Article XIII. If the militarisation of both the State and society persists, it poses risk towards the stagnation or reversal of democratisation efforts made by SADC....”*

Our first example demonstrates that, with another election looming, President Mugabe is once again relying heavily on the security forces to keep him in power. ZimEye reported on January 20, 2011 that Mugabe’s latest strategy involved the deployment of more than 80,000 youth militia, war veterans and soldiers across the country in an army-led drive. The journalist warned that the next election looked set to be the bloodiest ever witnessed in Zimbabwe. According to the report, Joint Operations Command (JOC) plan to intervene at an early stage in the process, well before foreign or even local observers are on the ground.

As elements of the strategy continued to be revealed, The Zimbabwean newspaper reported on November 18, 2011 that a Zimbabwe National Army colonel, Charles Muresherwa, had allegedly been resuscitating torture bases that had been used by ZANU PF during the run-up to the bloody June 2008 presidential run-off election. Muresherwa is an aspiring ZANU PF MP for Chimanimani East.

Commenting generally on the role of the army in elections, Charmian Gooch, the founding director of Global Witness, an international diamond watchdog, said in an article published in the Mail & Guardian on December 9, 2011²⁹: *“Over the past decade, elections in Zimbabwe have been associated with the brutal intimidation of voters. Orchestrating this kind of violence costs a lot of*

²⁹ Ray Ndlovu, ‘Marange diamond company is ZANU PF’s best friend’, Mail & Guardian, 9 Dec 2011: <http://mg.co.za/article/2011-12-09-marange-diamond-company-is-zanupfs-best-friend>

money. As the country approaches another election, there is a high risk of ZANU PF hardliners employing these tactics once more and using Marange diamonds to foot the bill."

The Zimbabwe Independent, in an article dated May 18, 2012 warned that the security sector, particularly the army, was increasingly manoeuvring into the country's mining terrain. *"In Marange, the army, police, intelligence and prison services have direct mining claims,"* the report said.³⁰

This year, Defence Minister Emmerson Mnangagwa confirmed fears of ongoing military involvement in the country's diamond industry. According to a SW Radio Africa report dated April 25, 2012 which we logged under this section, Mnangagwa told an audience in the Midlands town of Gweru, that army deals had been struck with diamond companies from China, Russia and other nations, but claimed this was part of an effort to counter Western targeted sanctions.³¹

Zimbabwe's Deputy Mines Minister, Gift Chimankire (MDC-T), was quoted in a report by Mining.com on June 19, 2012 to have confirmed that an army-owned company holds a 40 percent stake on Anjin, one of the most lucrative diamond concessions in the country. He said Anjin itself was a defence industry company owned by the Chinese, and there was nothing sinister about the Zimbabwe Defence Industry's involvement in it.³²

Human Rights Watch has consistently complained that the ZANU PF government – and latterly the Inclusive Government – have ignored directives made by the Kimberley Process to completely demilitarise the diamond fields in order to end the ongoing human rights abuses there. ZIG Watch noted Human Rights Watch had told SW Radio Africa on August 10, 2009 that one army brigade was rotated out of the diamond fields, only to be replaced by another.

³⁰ Owen Gagare, 'Zimbabwe: Security forces tighten mining sector grip', Zimbabwe Independent, 18 May 2012: <http://allafrica.com/stories/201205181069.html?viewall=1>

³¹ The United States first imposed targeted sanctions in March 2003 and later widened them to apply to about 250 people accused of undermining democracy. The U.S. sanctions also bar Americans from engaging in any transactions or dealings with them. For further information: Reuters, 'Factbox Sanctions on Zimbabwe', Zimbabwe Targeted Sanctions blogspot, 29 Jan 2009:

<http://zimbabwetargetedsanctions.blogspot.com/2009/01/factbox-sanctions-on-zimbabwe.html>

³² Cecilia Jamasmie, 'Zimbabwe confirms army ownership of diamond mine', Mining.com, 19 June 2012: <http://www.mining.com/zimbabwewan-government-confirms-army-ownership-of-diamond-mine/>

Ongoing criticism of partisan army generals was defended by Justice and Legal Affairs Minister, Patrick Chinamasa earlier this year. In an interview with the Zimbabwe Standard, published on May 27, 2012 he said that they had a right to meddle in politics by virtue of having fought for the liberation of the country.

Additional violations of Article XIII include a lack of impartiality in the discharge of duties, as was demonstrated by the release of a ZANU PF provincial political commissar from police custody behind the backs of court officials in Chiredzi, south east of Bulawayo. The article, published in The Zimbabwe Times on April 17, 2009 said sources within the Ministry of Justice had alleged that Justice Minister Patrick Chinamasa had ordered the release and had cautioned prosecutors over the way the case had been handled. The commissar had been arrested for fraud involving processed sugar worth over US\$132,000.

This was followed by a ZimEye report on July 13, 2009 that a police docket implicating two ZANU PF stalwarts, Defence Minister Emmerson Mnangagwa and the Minister of Publicity and Information, Webster Shamu, had vanished from Attorney-General Johannes Tomana's office. The police superintendent who was in charge of the investigations was immediately transferred from Bulawayo to a rural centre in Mashonaland Central province. The two ministers had been implicated in massive rhino poaching in the national parks after the arrest of a Chinese national.

Two months later, on September 24, 2009 SW Radio Africa reported that President Mugabe had told Reuters news agency he would "never" replace Attorney General Tomana and Reserve Bank Governor Gideon Gono. Both were handpicked by Mugabe in defiance of the power-sharing Agreement. During mid January 2009, Tomana stated in an interview on State-run television: *"Many people say I am ZANU PF. Today, I would like to make it public that I support ZANU PF because it is the ruling party...."*³³

Despite calls for his resignation, Tomana said he would not resign from his post, even if it meant the collapse of the Inclusive Government. He described the call by the MDC to have him fired as "mischief", the Zimbabwe Standard reported on September 5, 2009.

The abduction of MDC activists and officials by State security agents has continued throughout the tenure of the GPA. Radio VOP reported on June 3, 2009 that three MDC activists who had been illegally abducted and detained by State security agents the previous year, had again been forcibly

³³ Inno Mawire, 'Zimbabwe justice system suspect as AG Johannes Tomana declares allegiance to Zanu PF!', Zimpolitic, 14 Jan 2009: http://zimpolitic.blogspot.com/2009/01/zimbabwe-justice-system-suspect-as-ag_14.html

removed from their homes. They were taken to the Attorney General's office and instructed by the police that they should testify against other MDC activists who faced trial on charges of banditry.

The MDC's Transport Manager, Pascal Gwezere, who was severely tortured after he was abducted by State security agents in October 2009, was finally allowed to apply for bail mid November after serious charges laid against him had been dropped. However, SW Radio Africa said in an article dated November 19, 2009 that he was still being denied urgently needed private medical care.

The following day, Radio VOP reported that the State had invoked Section 121 of the Criminal Procedure and Evidence Act to deny Gwezere his freedom. He had been accused of stealing 20 AK47 rifles and a shotgun from an army barracks.

On September 24, 2009 ZimNet Radio warned that police details from the Law and Order Section were looking for the MDC-T's Director of Security, Chris Dlamini. The previous month, Dlamini had presented a dossier of murdered MDC victims of violence to the Attorney General's office.

Beleaguered MDC-T National Treasurer and Deputy Agriculture Minister designate, Roy Bennett, had his passport confiscated in May 2010 and his lawyer was notified by the Attorney General's office that his acquittal on charges of plotting to overthrow President Mugabe would be contested, SW Radio Africa reported on May 12, 2010. Bennett was arrested on what the MDC stresses were trumped up charges the same day Cabinet ministers took oaths of office in the transitional government. Since then Bennett has been blocked from taking up his post, a strategy described by Prime Minister Tsvangirai as a personal vendetta and a racist agenda.

In a further case involving what the MDC-T and its lawyers described as trumped up charges, police officers arrested dozens of MDC activists and their families at their homes and workplaces on allegations of killing a police inspector at a liquor store in Glen View, Harare. The Zimbabwean newspaper reported on May 30, 2011 that the arrests had taken place that day and said the secrecy surrounding the swoop was raising suspicion.

More than a year later, on June 19, 2012 SW Radio Africa reported that the bail of the 29 incarcerated MDC-T activists accused of the Glen View murder – some of whom had been tortured - had again been dismissed in the Harare High Court. Detective Inspector Henry Dowa, who has been linked to the brutal torture, is reported to have a history of torturing hundreds of MDC and civil society members. He was removed a UN peacekeeping force in 2003.

The activities of the Central Intelligence Organisation (CIO) are not confined within the borders of Zimbabwe. On May 20, 2011 SW Radio Africa reported that a group of civil society activists, including top lawyers and a journalist, had been arrested and 'violently ejected' from the Summit of the Southern African Development Community (SADC) underway in Namibia. CIO agents were leading the interrogation of activists, with the support of the Namibian police.

The blocking or withholding of food aid – frequently by the military - has been used consistently by the Mugabe regime as a mechanism for retaining power and this has not stopped, despite the implementation of the GPA. The Zimbabwe Standard warned on September 26, 2009 that renewed threats against NGOs by President Mugabe and the military would scare away relief agencies helping the majority of Zimbabweans with food aid.

Article XIII also stipulates that *“recruitment policies and practices be conducted in a manner which ensures that no political or other form of favouritism is practised.”*

However, in flagrant violation of the GPA, MDC-T youths in Munyati, a small Midlands province town, were barred from army recruitment by a ZANU PF war veteran. The Zimbabwean newspaper reported on November 22, 2011 that the war veteran warned they should first convert to ZANU PF if they were serious about getting into the army.

With all of the negative publicity and exposure of flagrant violations of the GPA, the independent and foreign media continue to be a thorn in the flesh of ZANU PF. On February 29, 2012 Radio VOP reported that The Zimbabwe Media Commission (ZMC) had intensified its onslaught against the Sunday Times, a South African newspaper sold in Zimbabwe, by setting the police on the weekly paper. ZMC chairperson Godfrey Majonga reported the Sunday Times and The Zimbabwean newspapers to the Zimbabwe Republic Police with the objective of barring them from entering and circulating in the country. In an affidavit, Majonga accused the Sunday Times and other foreign papers of carrying out newsgathering in the country without registration and licensing in contravention of the country's stringent media laws.

On April 13, 2011 SW Radio Africa raised the issue of ZANU PF's snubbing of EU and UN funding for the next elections. ZANU PF was reported to have turned down an offer by the United Nations to fund and supervise elections. Mines Minister Obert Mpofu (ZANU PF) has consistently refused to give an account for diamond revenue emanating from the Marange diamond fields despite complaints by Finance Minister Tendai Biti (MDC-T) of non-remittance to the treasury of revenue generated by mining companies. It is widely believed that lucrative Marange diamond sales are used to fund the ZANU PF war chest.

Biti also locked horns with Defence Minister Emmerson Mnangagwa during June this year. The Daily News reported on June 10, 2012 that the two had fought verbally in front of Prime Minister Morgan Tsvangirai over defence funding. Mnangagwa had threatened Biti after he turned down the ZANU PF minister's demands for an additional US\$2,5 million from treasury to bankroll salaries for 5,000 new army recruits.

The report said tensions ran high, with Mnangagwa allegedly threatening to send army generals to Biti's office, saying there was a risk of mutiny and that Biti was compromising State security. Biti

responded by declaring that treasury would not fund the recruits until the Inclusive Government received more cash from diamonds.

“As Zimbabwe heads towards elections in 2013, ZANU PF is once again looking to the country’s highly partisan securocrats to dash the people’s democratic desires and keep the party – and President Mugabe – in power....,” Richard Lee of the Open Society Initiative for Southern Africa (OSISA) wrote in an article published on the OSISA website on November 11, 2012.³⁴

He continued: “After the security force’s brutal campaign helped to prevent Morgan Tsvangirai and his MDC party from taking power when they won the 2008 elections, there was always concern that an unreformed (and unpunished) security sector would ensure that the next polls would also be marred by violence and intimidation – and that the democratic will of the people of Zimbabwe would again be thwarted.

“The question was always – how would they do it. The first necessity was cash. With the MDC controlling the State’s purse strings, the security sector bosses needed to find funds that it could use. They found the answer in the Marange diamond fields and in shady joint ventures with Chinese companies, which funnelled illicit diamond revenues into their empty coffers.

“But still it was not clear what they would spend all the money in their now overflowing war chests on,” Lee said. “That became clear on November 1st with the launch of the so-called military history documentation project – a project that is clearly designed to allow the army to campaign for ZANU PF and that will not document military history but instead will write another terrible chapter in the military’s increasingly bloody and anti-democratic history.

“As part of the project, the Zimbabwean security forces are going to deploy more than 30,000 members, including serving and retired officers and ZANU PF mobilisation officers, across the country to build ‘support’ for Mugabe and the party through a combination of terrifying ‘sticks’ and a few tempting ‘carrots’....

“SADC has to step in before it is too late. The longer they wait to denounce the rising tide of intimidation and illegal arrests of MDC politicians and civil society activists, the greater the chance of a repeat of 2008 – and another victory for the securocrats and their friends in ZANU PF. SADC also needs to tell ZANU PF to send the soldiers back to their barracks....

“It is all part of a grandiose but actually very simple plan. Rig the election, intimidate the voters and install a friendly ‘civilian’ government that will protect the securocrats’ lucrative diamond, gold, platinum and agricultural interests. It is a classic silent coup.

³⁴ Richard Lee, ‘Playing Politics with Military History’, OSISA, 11 Nov 2012: <http://www.osisa.org/hrdb/blog/playing-politics-military-history>

And it can't be allowed to happen. SADC and the AU cannot afford another coup – another bloody mess in Zimbabwe. And nor can the people of Zimbabwe,” concluded Lee.

Two days later, on June 19, the Times UK reported that “minutes after the secretary-general of Amnesty International, Irene Khan, accused elements of the Zimbabwean government of ‘persistent and serious human rights abuses’, a peaceful demonstration yards from where she stood had been broken up by baton-wielding riot police.

4) ARTICLE XVIII : SECURITY OF PERSONS AND PREVENTION OF VIOLENCE (2,754 BREACHES)

ARTICLE XVIII (Fourth highest number of recorded violations: 2,754)**SECURITY OF PERSONS AND PREVENTION OF VIOLENCE****18. Security of persons and prevention of violence**

18.1 Noting the easy resort to violence by political parties, State actors, Non-State actors and others in order to resolve political differences and achieve political ends.

18.2 Gravely concerned by the displacement of scores of people after the election of March 29, 2008 as a result of politically motivated violence.

18.3 Recognising that violence dehumanises and engenders feelings of hatred and polarisation within the country.

18.4 Further recognising that violence undermines our collective independence as a people and our capacity to exercise our free will in making political choices.

18.5 The Parties hereby agree:

(a) to promote the values and practices of tolerance, respect, non-violence and dialogue as means of resolving political differences;

(b) to renounce and desist from the promotion and use of violence, under whatever name called, as a means of attaining political ends;

(c) that the Government shall apply the laws of the country fully and impartially in bringing all perpetrators of politically motivated violence to book;

(d) that all political parties, other organisations and their leaders shall commit themselves to do everything to stop and prevent all forms of political violence, including by non-State actors and shall consistently appeal to their members to desist from violence;

(e) to take all measures necessary to ensure that the structures and institutions they control are not engaged in the perpetration of violence.

(f) that all civil society organisations of whatever description whether affiliated to a political party or not shall not promote or advocate for or use violence or any other form of intimidation or coercion to canvass or mobilise for or oppose any political party or to achieve any political end;

(g) to work together to ensure the security of all persons and property;

(h) to work together to ensure the safety of any displaced persons, their safe returns home and their enjoyment of the full protection of the law.

(i) to refrain from using abusive language that may incite hostility, political intolerance and ethnic hatred or unfairly undermine each other.

(j) that while having due regard to the Constitution of Zimbabwe and the principles of the rule of law, the prosecuting authorities will expedite the determination as to whether or not there is sufficient evidence to warrant the prosecution or keeping on remand of all persons accused of politically related offences arising out of or connected with the March and June 2008 elections.

FREEDOM OF ASSEMBLY AND ASSOCIATION

12. Freedoms of Assembly and Association

12.1 Recognising the importance of the freedoms of assembly and association in a multi-party democracy and noting that public meetings have to be conducted in a free, peaceful and democratic manner in accordance with the law, the Parties have agreed:

(a) to work together in a manner which guarantees the full implementation and realisation of the right to freedom of association and assembly; and

(b) that the Government shall undertake training programmes, workshops and meetings for the police and other enforcement agencies directed at the appreciation of the right of freedom of assembly and association and the proper interpretation, understanding and application of the provisions of security legislation.

In Derek Matyszak's report: "Losing Focus: Zimbabwe's 'Power Sharing Agreement'", which we referred to at the beginning of this document, he noted that the Agreement is "full of gaps and ambiguities".³⁵ It also understates the severity of the situation to a worrying degree.

For example, in Article XVIII, Security of Persons and Prevention of Violence, Article 18.2 states: "Gravely concerned by the displacement of **scores of people** after the election of March 29, 2008 as a result of politically motivated violence."

This is a masterpiece of understatement. A report by the Internal Displacement Monitoring Centre published in August 2008³⁶ reflects the shocking scale of internal displacement:

*"Hundreds of thousands of people have been internally displaced in Zimbabwe as a result of the actions of their own government. Most recently, **tens of thousands** of people have been displaced by a campaign of state-sponsored violence following the elections on March 29, 2008. In 2005, an urban clear-up operation referred to as Operation Murambatsvina (Operation "Clear the Filth") was*

³⁵ Derek Matyszak, 'Losing Focus: Zimbabwe's "Power-sharing" Agreement', pg 3, IDASA, 23 Oct 2008: http://m.idasa.org/resources/output/losing_focus_zimbabwes_power/?pid=states_in_transition

³⁶ Internal Displacement Monitoring Centre, 'The Many Faces of Displacement: IDPs in Zimbabwe August 2008', IDMC, pg 1: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/1989E123180C0FD8C12574AC002E6C20/\\$file/Zimbabwe_SCR_Aug08.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/1989E123180C0FD8C12574AC002E6C20/$file/Zimbabwe_SCR_Aug08.pdf)

estimated by the United Nations to have made 570,000 people homeless. Hundreds of thousands of farm workers and their families have been displaced as a result of the government's fast-track land reform and resettlement programme, which started in 2000. Other groups of people have been arbitrarily displaced for different reasons at different times.

"..... There are no official government statistics relating to these displaced populations; indeed, the government has consistently failed to acknowledge both the reality of displacement, and that its policies have caused internal displacement. Government obstruction means that no agency has been able to conduct a comprehensive survey to determine the number of Internally Displaced People (IDPs)....," the report added.

Article 18.5 (h) committed the parties *"to work together to ensure the safety of any displaced persons, their safe return home and their enjoyment of the full protection of the rule of law."*

Not only have the parties failed to ensure the safe return of displaced people but the displacements have continued, notably in the Chiadzwa district of Marange. On May 17, 2011 SW Radio Africa reported that the remaining families in the diamond-rich Chiadzwa area had been forced to leave their homes after soldiers had brutally evicted them over the weekend. The radio station said a distraught man had called the MDC-T offices to say that the process was being hurried, with properties being destroyed, and that they were not even sure where they were being moved to. According to the article, the Chinese mining company, Anjin, had recruited the soldiers to start moving the remaining 40 families on.

Adding to difficulties and trauma of the displaced Chiadzwa villagers, Mines Minister Obert Mpofu had earlier said they would only be compensated *after* the international community had allowed Zimbabwe to sell its contentious diamonds. The ZimEye report of May 14, 2011 noted that the government had promised the previous year to build schools, clinics and other facilities to the displaced families before awarding mining tenders to Anjin.

The same month, on May 30, 2011 ZimEye highlighted the plight of thousands of families who were wallowing in abject poverty after being displaced from their communal lands to pave the way for a bio-fuel project by the Agricultural and Rural Development Authority (ARDA) and Billy Rautenbach's³⁷ company, Macdom Pvt Ltd. As a result of the displacement, 30,000 acres had been acquired and the families were now without schools, health facilities and other basic essentials.

³⁷ Billy Rautenbach is a multimillionaire Zimbabwean businessman. He is known for his aggressive business tactics and is believed to have close links to ZANU PF.

A spate of new farm invasions that began in February 2009 had left 66,000 farm workers homeless, the General Agriculture and Plantation Workers' Union warned in a report released in September 2009. The union said that the farms' new 'owners' had hired police to force farm workers and their families off the land.

Article XVIII confirms that it is easy for political parties, State actors, non-State actors and others to resort to violence in order to resolve political differences and achieve political ends. Consequently, the parties agreed *"to denounce and desist from the promotion of violence as a means of attaining political ends."*

Despite this public commitment, President Mugabe and his security chiefs refused in May 2009 to disband Joint Operations Command (JOC) which, Nehanda Radio pointed out in an article dated May 21, was at the forefront of strategising their retention of power in the violent aftermath of the March 2008 elections. *"Instead, JOC still sits regularly, thumbing its nose at the Inclusive Government,"* the journalist wrote.

Article XVIII also states *"that the Government shall apply the laws of the country fully and impartially in bringing all perpetrators of politically motivated violence to book."*

However, with murders, torturers and thieves continuing to live freely within terrorised communities, the anger and frustration of victims of abuse has continued to mount and in some cases, the victims or family members have taken matters into their own hands.

In the Mwenezi district of southern Zimbabwe, a 15-year-old schoolboy, whose father was murdered in the 2008 elections, stabbed to death a well-known ZANU PF 'terror master' at a church service during April 2010. The man, who was an aide to Kudakwashe Bhasikiti, the ZANU PF Mwenezi East MP, had gone to intimidate worshippers, Radio VOP said.

An 82-year-old headman who was arrested and tortured by ZANU PF youth militia and war vets died from his injuries, SW Radio Africa reported on April 19, 2011. The journalist said the headman had been targeted because he had attended an MDC rally. *"Now, it is understood, the three ZANU PF thugs who abducted and tortured him are taunting villagers in Nyanga about his death.... The assailants are roaming free...."* the journalist warned.

The campaign of violence throughout the commercial farming sector has continued relentlessly. On May 19, 2009 SW Radio Africa reported that the 80-year-old mother of a Chinhoyi farmer, Murray Potts, had been severely assaulted by police when they had arrested her son for being on his land 'illegally'. *"The attacks are seen as clear police brutality and harassment and part of ongoing efforts to scupper the unity government,"* the reporter said. A farmer from the nearby Banket district was also beaten up on his farm by the son of Philip Chamboko, a ZANU PF official.

Instead of supporting peace initiatives, the police arrested a Roman Catholic priest stationed in Lupane during April 2011 after he delivered a powerful sermon against violence at a church service organised by the Organ for National Healing and Reconciliation in the area.

Article XVIII also committed the partners in the GPA to upholding the principles of the rule of law and raised the issue of outstanding prosecutions and remand cases related to the March and June 2008 elections. However, there have been many instances of people being kept on remand for months on end and of bail being revoked.

For example, in May 2009, six months after the arrest of Jestina Mukoko, a human rights campaigner and director of the Zimbabwe Peace Project (ZPP), Mukoko and 14 other traumatised abductees were back in jail after their bail had been strategically terminated through the provisions of the Criminal Procedure and Evidence Act. SW Radio Africa said rights groups and the MDC had pointed out that this undermined the entire GPA.

One of the mechanisms that ZANU PF has continued to employ to neutralise the MDC is to jail MPs on trumped up charges. For example, Mathias Mlambo, MDC-T MP for Chipinge East, was sentenced during 2009 to 10 months in prison for “public violence”, while another MDC-T MP, Meki Makuyana, was convicted on “trumped up charges” of kidnapping. By July, five MDC-T MPs had been safely jailed by the largely ZANU PF-pliant judiciary. An MDC statement noted that this was an attempt to decimate its structures and reverse the party’s majority in Parliament, SW Radio Africa said.

Despite the partners in the GPA committing themselves in Article XVIII to creating an environment of tolerance, the Media Monitoring Project of Zimbabwe (MMPZ) warned during mid November, 2008 – a month after the signing of the GPA – that journalism in Zimbabwe remained a risky and dangerous operation. The MMPZ said it invited criminal prosecution, except for a privileged few who worked for the government-owned media. The MMPZ warned the African Commission on Human and People’s Rights that *“Journalists continue to be harassed, arrested and prosecuted under the country’s repressive media laws....”*, Zim Online reported on November 17, 2008.

Two months later, in a report published on January 11, 2009 by Earth Times, journalists criticised “astronomical” accreditation fees of US\$4,000 imposed by a government-run media commission on local journalists working for the foreign media. Foreign media houses were required to pay US\$10,000 for the application and US\$20,000 for accreditation, payable only in foreign currency, with a further administration fee of US\$2,000.

Earth Times quoted press advocacy group Reporters Without Borders (RSF) as saying: *“The increase is indicative of the contempt the government feels towards the press in general, and the international media in particular, and its desire to engineer a news blackout about politics, economics and public health developments in Zimbabwe.”*

5) ARTICLE II: DECLARATION OF COMMITMENT (2,482 BREACHES)

ARTICLE II (Fifth highest number of recorded violations: 2,482)**DECLARATION OF COMMITMENT**

2. Declaration of Commitment

The Parties hereby declare and agree to work together to create a genuine, viable, permanent, sustainable and nationally acceptable solution to the Zimbabwe situation and in particular to implement the following agreement with the aims of resolving once and for all the current political and economic situations and charting a new political direction for the country.

Just two months after the signing of the Global Political Agreement on September 15, 2008 ZANU PF was already backtracking on its commitment. In the first issue of ZIG Watch we profiled an article by Reuters dated November 18, 2008 which reported that the ZANU PF government was insisting it would draft a constitutional amendment and form a cabinet despite the disagreement of the MDC parties to the negotiations. The MDC had resolved not to endorse the Inclusive Government until all the outstanding issues had been agreed by all parties.

A week later, on November 25, 2008 The Telegraph (UK) published an article titled: 'Robert Mugabe demands right to cancel Zimbabwe power-sharing deal'. *"According to a copy of the ZANU PF party's draft of the constitutional amendment, obtained by The Telegraph, Section 5 clause 115 of the new constitution, as proposed by ZANU PF, states that any deal could be cancelled if 'the President is satisfied that the circumstances are such that the continuance of the Interparty Political Agreement is no longer possible for any reason,' the journalist noted. "Mr Mugabe would simply have to issue a proclamation and all the changes brought in by power-sharing would be cancelled, including Morgan Tsvangirai's prime ministership, with the country reverting to an executive presidency."*

The article noted that the MDC was also attempting to put its own spin on the constitutional changes. *"In its proposal it effectively seeks to re-open the power-sharing negotiations by increasing the authority of the Council of Ministers, which will be made up of all cabinet members, the prime minister and his deputies, but excludes the president: Mr Mugabe. 'The Cabinet, and every member thereof, shall comply with any directions or recommendations given to it or him, as the case may be, by the Council of Ministers'. Analysts who have compared the two drafts say they are so far apart that agreement is highly unlikely. 'It will take a miracle,' said one."*

Acrimonious exchanges between the parties escalated when President Mugabe refused to fire the country's controversial Attorney General, Johannes Tomana, and equally controversial Central Bank Governor, Gideon Gono. The African Press Association commented on February 26, 2009 that this

action set the stage for a political showdown. *“The MDC has insisted that ... Gono and Tomana were improperly appointed. Under the Agreement, all appointments of senior officials by Mugabe have to be done in consultation with the Prime Minister.”*

During April 2009, the role of Information Communication Technology Minister Nelson Chamisa (MDC-T) was in the spotlight. Radio VOP said Chamisa *“had described the annexing of functions under his ministry and handover to an expanded Ministry of Transport and Infrastructure Development led by Nicholas Goche (ZANU PF) as a joke, indicating that President Mugabe does not have the mandate to do so.”*

There was drama at the all-stakeholders conference in Harare on July 13, 2009 when ZANU PF disrupted proceedings and hurled abuse at the Speaker of Parliament, Lovemore Moyo (MDC-T), causing chaos. The disruptions were led by ZANU PF MPs Saviour Kasukuwere, Indigenisation Minister, Patrick Zhuwawo, former MP Nyasha Chikwinya and war veteran Joseph Chinotimba. Police stood by while they pelted delegates with plastic bottles of water and an MDC councillor sustained head injuries after being assaulted by them.

The appointment of governors from the two MDC formations was dogged by controversy in August 2009. The Zimbabwe Independent reported on August 27 that Mugabe, Tsvangirai and Mutambara had agreed that the governors would be appointed on the basis of the March 2008 House of Assembly election results and that the incumbents were expected to leave office the following Monday. However, ZANU PF had since reneged on the deal saying the issue was not negotiable as their appointment was the constitutional prerogative of the President.

Friction related to appointments continued in 2010 and on May 21 SW Radio Africa reported that Mugabe had appointed a new Supreme Court judge and four High Court judges without informing his MDC partners in government. He had also promoted Retired Brigadier General Chiweshe as the new High Court Judge President. This was an especially controversial appointment as *“Chiweshe had chaired the discredited Zimbabwe Electoral Commission that kept Mugabe in power in 2008 by withholding election results for a month while massaging the figures,”* SW Radio Africa wrote.

Earlier in the month, on May 20, 2010 ZimDiaspora reported that Zimbabwean military commanders were secretly giving permits to Chinese soldiers to work in the Marange diamond fields following a secretive memorandum of understanding with Chinese authorities. The publication said that *“Army Commander Constantine Chiwenga (was) believed, with President Mugabe’s approval, to have struck a deal with senior Chinese military officials and suppliers of hardware like vehicles, guns and bomb materials.”*

At the SADC Summit on August 20, 2010 SW Radio Africa reported that *“The SADC Troika on Defence, Security and Politics resolved that agreed issues in the Global Political Agreement should be fully implemented within a month.”* But Mugabe cast serious doubt on this happening, saying he wouldn’t meet any further demands of the MDC until targeted sanctions had been repealed.

The following month, Radio VOP reported on September 4, 2010 that Justice and Legal Affairs Minister Patrick Chinamasa had created consternation and anger when he announced that the new Human Rights Commission, whose bill he had just finished drafting, would not have the powers to investigate human rights violations committed *before* the formation of the Inclusive Government.

On September 16, 2010 SW Radio Africa reported that Presidential Affairs Minister Didymus Mutasa had said ZANU PF would never hand over power to Tsvangirai, even if he won the next elections. Mutasa warned that Tsvangirai would only do so over their dead bodies.

This was corroborated at the beginning of November by Defence Minister Emmerson Mnangagwa who said that a handover to the MDC would be tantamount to “failing departed comrades” of the 1970s war of independence. NewZimbabwe.com reported that Mnangagwa had accused the MDC of doing the bidding of hostile Western countries, calling it a “puppet political party”. Later that month Mnangagwa told hundreds of people in the Midlands town of Kwekwe that, “... *if you don’t vote for us in the next election, ... we will rule even if you don’t want.*” (Zimbabwe Mail, November 21, 2010)

SW Radio warned on October 7, 2010 that Zimbabwe had been thrown into a constitutional crisis after Mugabe had unilaterally appointed provincial governors from ZANU PF to serve another term in violation of the GPA. The radio station said that a visibly angry Tsvangirai was “utterly surprised and disgusted”. Mugabe had also made it clear that he had no intention of ever swearing in the Deputy Minister of Agriculture designate, Roy Bennett – also in direction violation of the GPA.

The Media Monitoring Project Zimbabwe (MMPZ) cautioned during mid November that the Zimbabwe Government was planning to block public access to state information like court judgments, legislation, official notices and public registers. Proposed legislation drafted by ZANU PF would worsen an already heavily restricted media environment, MMPZ said. For example, to publish a court ruling that affected the rights of citizens, human rights organisations would have to get permission from the Justice Minister. (Monsters and Critics, November 15, 2010)

George Charamba, President Mugabe’s controversial spokesperson, ordered all state media editors to go all out to attack Prime Minister Tsvangirai in the run up to elections and campaign for ZANU PF, The Zimbabwean newspaper reported on January 20, 2011.

Commenting on the resistance of the security forces to the Unity Government and its change programme the following month, Tsvangirai accused Mugabe – who is supreme commander of the armed forces and appoints the country’s police, Central Intelligence Organisation and prison service chiefs – of being fully aware of the situation. In a report published by Zim Online on February 17, 2011 Tsvangirai said they had deliberately defied civilian authority and were a Third Force that had assumed control of the country.

On April 1, 2011 AFP reported that a recalcitrant Mugabe had vowed to resist pressure from fellow Africans to resolve tension in the power-sharing Agreement. *“We will not brook any dictation from any source.... Even our neighbours cannot dictate to us,”* he warned in the wake of an unusually strong rebuke from regional leaders criticising the slow pace of the power-sharing deal.

During July 2011 ZANU PF mounted a hate speech campaign in an attempt to discredit Zimbabwe Electoral Commission (ZEC) Chairman, Simpson Mtambanengwe ahead of elections. This was triggered by attempts made by Mtambanengwe to institute reforms that would make ZEC more transparent in line with the GPA, The Zimbabwean newspaper commented on July 23, 2011.

The Broadcasting Authority of Zimbabwe (BAZ) was accused in November 2011 of awarding the country’s first independent radio broadcast licences to ZANU PF affiliated organisations, SW Radio Africa reported on November 24, 2011. Hard on the heels of this was a decision taken at ZANU PF’s annual conference to come up with stringent media laws to silence media that criticised the former ruling party, ZimEye said on December 12, 2011.

SW Radio Africa reported on March 23, 2012 that Information Minister Webster Shamu had snubbed calls for media reform, despite an earlier agreement by the principals of the GPA to reform the partisan boards of the ZBC and the BAZ.

We close the section on “commitment” to the GPA with a remarkable admission of the use of political violence by ZANU PF’s Women’s League Secretary and Politburo member, Oppah Muchinguri. Africa Report wrote on June 5, 2012 that Muchinguri had confirmed her party regularly enlists services militia to unleash violence on political opponents.

Muchinguri, who ironically also co-chairs the GPA’s Joint Monitoring and Implementation Committee (JOMIC), said the notorious Chipangano gang – which has been accused of murder, violence, robbery, intimidation, coercion, looting and the disruption of MDC-owned businesses – was routinely “hired” by politicians from ZANU PF.

VIOLATIONS OF ARTICLES X, V, III, XII AND VIII

Since the second set of Articles in the top ten list of breaches recorded by us accounted for a significantly lower number of violations, we will refer to them in less detail. However, the violations are also extremely serious and, once again, the overwhelming majority were committed by ZANU PF.

ARTICLE X (Sixth highest number of recorded violations: 707)
FREE POLITICAL ACTIVITY

10. Free political activity

Recognising that the right to canvass and freely mobilise for political support is the cornerstone of any multi-party democratic system, the Parties have agreed that there should be free political activity throughout Zimbabwe within the ambit of the law in which all political parties are able to propagate their views and canvass for support, free of harassment and intimidation.

Ever since the rise to prominence of the MDC, the ZANU PF hierarchy has utilised every mechanism possible to block free political activity within the country. Despite President Mugabe's commitment to allowing free political activity with the signing of the GPA, efforts by former opposition parties to canvass and mobilise freely for political support are still being thwarted.

For example, on November 11, 2008 The Zimbabwe Times reported that the current Minister of Information, Sikhanyiso Ndlovu, had imposed censorship on information concerning the reformation of the Zimbabwe African People's Union (ZAPU), the political group absorbed into ZANU PF with the signing of the Unity Accord in 1987³⁸.

In June 2009, the MDC-T complained of a blackout of the Prime Minister's press conferences by the ZBC, the refusal to deploy journalists from the State-owned media to accompany the PM during an international tour and general biased reporting. (Zim Online, June 17, 2009)

A top police official told The Zimbabwean newspaper in June 2009 that ZANU PF hardliners also gave directives continuously to the Police Support Unit to beat and detain anyone planning a demonstration.

ZANU PF's controversial National Chairman, Simon Khaya Moyo, told a meeting in the eastern city of Mutare during October 2010 that his party would not relinquish power to any other party than

³⁸ The Unity Accord was signed in the wake of the Gukurahundi massacres carried out by President Mugabe's North Korean-trained 5th Brigade between 1983 and 1987 in the predominantly Ndebele regions of Zimbabwe most of whom were supporters of Joshua Nkomo, the leader of ZAPU. About 20,000 people from Matabeleland and the Midlands are believed to have died or disappeared in the conflict. In June 1988, President Mugabe granted amnesty to all members of the security forces who had committed human rights violations.
http://en.wikipedia.org/wiki/Gukurahundi#Unity_Accord_of_1987

ZANU PF. The journalist noted that ZANU PF was using soldiers to bar MDC rallies in Manicaland and that servicemen were also directing chiefs and other traditional leaders to block MDC rallies.

Early the following month, in an intimidating show of strength, between 300 and 500 soldiers marched in support of Mugabe in the southern town of Masvingo. Holding placards declaring their allegiance to the President, they also chanted slogans demanding that he rule for ever. (SW Radio Africa, November 9, 2010)

In the remote Hurungwe area north of Harare, villagers were warned at the end of November 2010 that election time would be a time for war and a lot of blood would be spilt. Fifty-five headmen were forced to attend meetings with their subjects and did so out of fear, a Radio VOP report noted on December 1, 2010.

Despite the increasing levels of fear, SW Radio Africa reported on December 9, 2010 that two chiefs in the Buhera district of Manicaland Province had refused to allow two retired army officers to set up youth militia training camps in the district. Under the guise of skills training centres, they would be used as tortures bases in the next elections.

The construction of a secret electronic eavesdropping complex outside Harare, “National Defence College”, poses a major threat to free political activity. It is believed that the massive complex will, among other things, be used to monitor internet use and telephone calls around the country. Commenting on the complex, SW Radio Africa noted on March 3, 2011 that it was being constructed at a very fast pace by the Chinese and was operated by the CIO and local military intelligence.

On February 18, 2012 The Zimbabwe Standard reported that political thuggery was enslaving the Mbare township in Harare. The newspaper said that ZANU PF-sponsored thugs, the Chipangano gang, was instilling fear into residents, “*rendering them political hostages in their own backyard.*” Resistance invited “*severe beatings, banishment from the suburb or even death.*”

The same month, Radio VOP reported on February 28, 2012 that the State had invoked Section 121 of the Criminal Procedure and Evidence Act (CPEA) to deny bail to 13 MDC-T officials arrested on allegations of contravening the highly contentious Public Order and Security Act (POSA). The group was arrested for supposedly holding a public gathering without police authorisation.

Our final example in this section relates to the violent Chipangano gang which SW Radio Africa reported on April 13, 2012 was campaigning for ZANU PF in Mbare and was forcing citizens to reveal their personal details and ordering them to vote for President Mugabe in the next election.

ARTICLE V (Seventh highest number of recorded violations: 671)**LAND QUESTION****5. Land Question**

5.1 Recognising that colonial racist land ownership patterns established during the colonial conquest of Zimbabwe and largely maintained in the post independence period were not only unsustainable, but against the national interest, equity and justice.

5.2 Noting that in addition to the primary objective of the liberation struggle to win one man one vote democracy and justice, the land question, namely the need for the re-distribution of land to the majority indigenous people of Zimbabwe was at the core of the liberation struggle.

5.3 Accepting the inevitability and desirability of a comprehensive land reform programme in Zimbabwe that redresses the issues of historical imbalances and injustices in order to address the issues of equity, productivity, and justice.

5.4 While differing on the methodology of acquisition and redistribution the parties acknowledge that compulsory acquisition and redistribution of land has taken place under a land reform programme undertaken since 2000.

5.5 Accepting the irreversibility of the said land acquisitions and redistribution.

5.6 Noting that in the current Constitution of Zimbabwe and further in the Draft Constitution agreed to by the parties the primary obligation of compensating former land owners for land acquired rests on the former colonial power.

5.7 Further recognising the need to ensure that all land is used productively in the interests of all the people of Zimbabwe.

5.8 Recognising the need for women's access and control over land in their own right as equal citizens.

5.9 The Parties hereby agree to:

(a) conduct a comprehensive, transparent and non-partisan land audit, during the tenure of the Seventh Parliament of Zimbabwe, for the purpose of establishing accountability and eliminating multiple farm ownerships.

(b) ensure that all Zimbabweans who are eligible to be allocated land and who apply for it shall be considered for allocation of land irrespective of race, gender, religion, ethnicity or political affiliation;

(c) ensure security of tenure to all land holders.

(d) call upon the United Kingdom government to accept the primary responsibility to pay compensation for land acquired from former land owners for resettlement;

(e) work together to secure international support and finance for the land reform programme in terms of compensation for the former land owners and support for new farmers; and

(f) work together for the restoration of full productivity on all agricultural land.

The Crisis in Zimbabwe Coalition comments as follows on the land issue in its “Zimbabwe Transition Barometer – ‘Trekking the Transition’” of October 2012:³⁹

“Article V of the GPA speaks to the inevitability of the land reform and as well endorses the 2000 Fast-track Land Resettlement Programme as an irreversible and final process.

“The GPA further instructs the Inclusive Government (IG) to conduct a land audit and eliminate multiple farm ownership, provide equal access of land to all Zimbabweans and to restore full productivity on agricultural land.

“This is one indicator where almost nothing has literally happened as the IG partners have all remained silent on the land issue. The land question got relegated and forgotten as the MDCs focussed more on political reforms. On the other hand, ZANU PF has also been conspicuously silent about the Article V. (The following) observations may provide some insight:

- *ZANU PF is opposed to conducting a transparent and comprehensive land audit. This means the party continues to undermine and violate the GPA provisions – in this case Article 5[57], particularly clause 5.9. (a), which states that parties agree to conduct a comprehensive, transparent and non partisan land audit, during the tenure of the parliament of Zimbabwe, for the purpose of establishing accountability and eliminating multiple farm ownership.*
- *However within the midst of the silence on Article V, land reform (grabbing) has been continuing.... Civil Society has also been conspicuously silent on the need for implementation of Article V.”*

The document warns that *“Land grabbing has an insidious influence on society that promotes patronage and violence as legitimate vehicles to acquire wealth. This is an anathema to democracy.”*

Our first example of violations of Article V occurred at the beginning of 2009. The Zimbabwe Times reported on January 30 that *“fresh farm invasions (had) been witnessed in Mashonaland West province as frustrated ZANU PF supporters (tried) to grab pieces of land before the inception of (the Inclusive Government) in two weeks’ time.... The invasions are said to have been instigated by Themba Mliswa, the ZANU PF Secretary for Lands in (the province).”*

On February 26, 2009 - just 15 days after the formation of the Inclusive Government - The Times (UK) warned that *“President Mugabe's leading henchmen (had) mounted a final offensive to drive Zimbabwe's remaining white farmers off their land in a direct challenge to the authority of the new unity Government.”*

The Times said that *“More than 100 farms and 50 smallholdings (had) been raided - many at gunpoint.... with regional governors, MPs, senators and high-ranking officials - all linked to the Mugabe regime - marching onto productive farms and telling their white owners to leave....”*

³⁹ Crisis in Zimbabwe Coalition, ‘Zimbabwe Transition Barometer – Trekking the Transition’, pg 18, OSISA, October 2012: <http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

On April 18, 2009 The Zimbabwe Standard reported that on Masori Range plantation farm, which had been acquired and later given to the Makoni Rural District Council to manage, resident farm workers had initially been stranded. Subsequently they had been bundled into army trucks and dumped 30km away in an area of loose sandy soils not suitable for agriculture, while the senior council officials and politicians were growing rich from the timber sales from Masori Range.

The Zimbabwe Times reported on May 4, 2009 that Deputy Prime Minister Arthur Mutambara had clashed with war veterans over the invasion of Swantoen Farm, south of Masvingo, after they defied his orders to vacate the property. He said that the former owner of the farm should be allowed back. The farm had been invaded by former Masvingo ZANU PF provincial chairman, retired Major Alex Mudavanhu and Isaiah Muzenda, the former provincial chairman of the Zimbabwe National Liberation War Veterans' Association in Masvingo.

In contrast later that month, SW Radio Africa reported on May 25, 2009 that Prime Minister Morgan Tsvangirai had played down the severity of the ongoing invasions, which had left the commercial farming community reeling, describing them as '*isolated incidents*' that have been '*blown out of proportion*'. He said he had asked the Minister of Lands (ZANU PF) to provide a detailed report.

During mid June 2009, Justice Minister Patrick Chinamasa slammed a SADC Tribunal ruling, meant to stop the ongoing wave of farm invasions, saying court orders issued by the highly respected regional court had no legal force in Zimbabwe. He condoned the attacks that had left thousands of farm workers without jobs, saying they were a justifiable protest against unfair land ownership, SW Radio Africa reported on June 15, 2009.

The Zimbabwe Times reported on July 27, 2009 that Attorney-General Johannes Tomana, a self-confessed ZANU PF member, had taken over Malangani Ranch in Masvingo in the midst of a spree of property acquisitions in the province by senior ZANU PF officials.

Radio VOP highlighted the plight of villagers in Hurungwe in an article dated August 13, 2009. VOP reported that they had been told they would be evicted to make way for a game park to be created for a safari operations partnership between a Chinese company and a ZANU PF chief.

The General Agriculture and Plantation Workers' Union of Zimbabwe (GAPWUZ) released a report in September 2009 which warned that more than 66,000 farm workers had been made homeless since February – when the Inclusive Government came into effect. GAPWUZ said that in some instances, the "new owners" had hired police to force farm workers and their families off the land.

Also during September 2009, Radio VOP noted that a white commercial farmer, Robert McKersie, was due to appear in court for the 78th time, "*just for continuing farming activities and feeding a starving community that has largely been reliant on his help over the years*," VOP said.

During November 2009, Lands Officer Clever Kunonga laid siege to another farm in the Chegutu district but the police refused to stop the harassment, even though strategic fires had been lit around the owner's thatched homestead.

The following year, two farmers were evicted in the Inyathi district of Matabeleland. The wife and elderly parents of the owner of Ocardale farm were forced to evacuate their home at gunpoint, The Zimbabwean newspaper reported on May 27, 2010.

By the end of November 2010, a select group of President Mugabe's ruling elite and party loyalists controlled about 5 million hectares of Zimbabwe's most profitable land, totalling the size of a small country, SW Radio noted. The report includes a list of the top farm barons.⁴⁰

While the farm grabs continued in 2011, media reports highlighted the fact that much of the land was now lying idle. The Zimbabwean noted in a report dated October 14 that on Lionsvale farm, previously a major citrus exporter in the Chegutu district – which had been grabbed by former Deputy Minister Bright Matonga – orange trees were dying from lack of attention and most of the stolen equipment had been grounded.

Ironically on November 9, 2011 Radio VOP reported that in Masvingo, 33 war veterans had been arrested by the police for allegedly defying a court order to vacate a farm initiated by Higher and Tertiary Education Minister Stan Mudenge (ZANU PF).

Our last example involves the extremely wealthy co-Home Affairs Minister, Kembo Mohadi, who was involved in a legal battle to take over another farm in the Beit Bridge district from a war vet who claimed the property had been allocated to him. SW Radio Africa noted in a report dated January 5, 2012 that both parties claimed to have 'offer letters'.

In conclusion, as Crisis in Zimbabwe Coalition points out, the Inclusive Government has failed to conduct a land audit, to eliminate multiple farm ownership, to provide equal access of land to all Zimbabweans and to restore full productivity on agricultural land.

The Global Political Agreement mandated the Inclusive Government to prioritise the restoration of economic stability and growth in Zimbabwe and to urgently address the issues of production, food security, poverty and unemployment and the challenges of high inflation, interest rates and the exchange rate.

With Finance Minister Tendai Biti (MDC-T) at the helm, laudable progress has been made although he has faced massive challenges throughout his turbulent tenure. As Crisis in Zimbabwe Coalition points out in its Zimbabwe Transition Barometer:⁴¹ *"The adoption of the multi-currency regime mainly (South African Rand, Botswana Pula, United States Dollar, British Pound and Euro), and*

⁴⁰ ZimOnline, 'Mugabe elite control 5 million hectares of Zim land', SW Radio Africa, 30 Nov 2010: <http://www.swradioafrica.com/pages/landbarons301110.htm>

⁴¹ Crisis in Zimbabwe Coalition, 'Zimbabwe Transition Barometer – Trekking the Transition', pg 13, OSISA, October 2012: <http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

introduction of STERP 1 and STERP 2⁴² managed to arrest rampant inflation and stabilise the economy. This also reportedly led to the resurfacing of basic commodities.”

ARTICLE III (Eighth highest number of recorded violations: 666)

RESTORATION OF ECONOMIC STABILITY AND GROWTH

3. Economic recovery

3.1 The Parties agree:

(a) to give priority to the restoration of economic stability and growth in Zimbabwe. The Government will lead the process of developing and implementing an economic recovery strategy and plan. To that end, the parties are committed to working together on a full and comprehensive economic programme to resuscitate Zimbabwe's economy, which will urgently address the issues of production, food security, poverty and unemployment and the challenges of high inflation, interest rates and the exchange rate.

(b) to create conditions that would ensure that the 2008/2009 agricultural season is productive.

(c) to establish a National Economic Council, composed of representatives of the Parties and of the following sectors:

- (i) Manufacturing
- (ii) Agriculture
- (iii) Mining
- (iv) Tourism
- (v) Commerce
- (vi) Financial
- (vii) Labour
- (viii) Academia; and
- (ix) Other relevant sectors

(d) that the terms of reference of the Council shall include giving advice to Government, formulating economic plans and programmes for approval by government and such other functions as are assigned to the Council by the Government.

(e) to endorse the SADC resolution on the economy.

“Inflation ...fell from a record 230 million percent in July 2008 to 4.3 percent as of September 2011 and the economy which had contracted by over 50 percent during the 10 years to December 2008, has been on a strong growth path since 2009....” (Sokwanele would like to point out here that this is off a very low base).

⁴² Short-term Economic Recovery Programme

“To date, there has been bickering in the IG on the composition and operationalisation of the National Economic Council (NEC),” the Zimbabwe Transition Barometer notes. “.....This policy discord in the IG is further heightened by the Indigenisation Policy being implemented by Youth, Indigenisation and Economic Empowerment Minister, Saviour Kasukuwere. Key areas that have seen the indigenisation policy being aggressively pushed are mining, finance and banking, education and wildlife and tourism....”

One of the major difficulties for Biti has been the below-expected revenue flows and the fact that little/no income has come from mineral resources, notably Marange diamonds.

Zimbabwean commentator Denford Magora believes that the absence of a Deputy Minister of Finance was *“a deliberate ploy by President Mugabe to ensure that the MDC-T was handed a poisoned chalice and could not blame it on a ZANU PF deputy, making the way forward very dangerous indeed for Tendai Biti and the MDC-T.”*⁴³

Our first example that demonstrates the lack of commitment to economic revival is taken from a Zimbabwe Independent report published the day after the formation of the Inclusive Government. The newspaper warned on February 12, 2009 that President Mugabe was re-appointing the same cabinet he had described the previous year as the worst he had ever had. *“The line-up includes ministers who have proved manifest failures in office but who demonstrate a close attachment to the president - some over a 30-year period,”* the journalists who co-wrote the article pointed out.

Mugabe stunned his critics and made world headlines in August 2008 when he commented: *“The Cabinet that I had was the worst in history. They [only] look at themselves. They are unreliable...”*⁴⁴

On February 3, 2009 NewZimbabwe.com reported that cash-strapped Zimbabwe was splashing US\$2 million on imported vehicles for the country’s legislators.

Given President Mugabe’s earlier comments, it is not surprising that private auditors hired by the Zimbabwe Government to probe State enterprises uncovered massive corruption in a number of them. VOA News reported on November 16, 2010 that millions of dollars could apparently not be accounted for in some of the State companies, most of which had been operating without proper audits since 2005.

In May 2009, Radio VOP reported that Zimbabwe and South Africa were deadlocked over the signing of an investment treaty due to the land issue. Representatives from Zimbabwe had balked

⁴³ Denford Magora, ‘Tendai Biti barred from presenting 2010 budget’, Denford Magora’s Zimbabwe Blog, 5 Nov 2009: <http://denfordmagora.blogspot.com/2009/11/tendai-biti-barred-from-presenting-2010.html>

⁴⁴ Bruce Sibanda, ‘Angry Mugabe calls his cabinet the worst in history and unreliable’, Afrik-News, 27 Aug 2008: <http://www.afrik-news.com/article14354.html>

on appending their signatures to the treaty after their South African counterparts had insisted that the deal should cover land investments.

Two years later on January 19, 2011 VOA News reported that ZANU PF had started registering local members for the allocation of sugar cane fields in the Triangle and Hippo Valley estates in apparent preparation for a takeover of the assets under the Indigenisation Act. Triangle Sugar Ltd is owned by Tongaat-Hulett of South Africa, which also holds a controlling stake in the Hippo Valley estate. Business Forum Secretary, Roy Magosvongwe, said the move would be economically damaging given the importance of the sugar plantations and hoped the emerging threat to businesses would not repeat that of the farm invasions.

The following year, on March 11, 2012 The Zimbabwe Standard reported that the US\$600 million Chisumbanje ethanol project was under threat of collapse as ZANU PF chefs, including Cabinet ministers, were demanding free shares in the lucrative venture under the guise of indigenization. The Chisumbanje project is a partnership between the Agricultural and Rural Development Authority (ARDA) and Billy Rautenbach's Green Fuels. Rautenbach, a controversial Zimbabwe-born businessman, is believed to have intricate political connections with high-ranking ZANU PF government officials.

On May 5, 2010 SW Radio Africa reported that Finance Minister Tendai Biti (MDC-T) had announced a new Board, chaired by Gideon Gono, to oversee the Reserve Bank. The radio station questioned how the Board *"would restore credibility and legitimacy, being chaired by the individual who raided private corporate foreign currency accounts to fund ZANU PF's repression."*

The Zimbabwe Independent raised the thorny issue of the Marange diamonds fields on April 29, 2010 informing the public that the police were planning on getting involved in diamond mining in conjunction with the State-owned Zimbabwe Mining Development Corporation (ZMDC). Police Commissioner Augustine Chihuri had written to Mines Minister Obert Mpofu (ZANU PF) asking for a mining concession in Marange, the newspaper said.

Four months later, on September 7, 2010 SW Radio Africa reported that the High Court had cancelled the mining licence of African Consolidated Resources (ACR), the legal owners of the Chiadzwa diamond claim in the Marange diamond fields. The Court rescinded a judgment it had made the previous year which had confirmed ACR's rights to the Chiadzwa claim.

On November 17, 2010 the Zimbabwe Mail reported on a diamond certification scandal involving the export to India of diamonds worth US\$160 million following a Kimberley Process certification by a South African businessman *"although Zimbabwe diamonds are barred from such certification,"* the Zimbabwe Mail wrote. *"Mr Chikane's actions took place 'without the authorization or sanction of the Kimberley Process', according to Partnership Africa Canada (PAC)."* Chikane was still attached to the Kimberley Process but had acted on his own behalf, the newspaper said.

The following month, on December 5, 2010 The Zimbabwean newspaper reported that Grace Mugabe, the wife of President Mugabe, had been pursuing her mining interests in the diamond fields and was dealing with dubious traders from Hong Kong, reportedly linked to the Chinese mafia.

After making revelations in Parliament about corruption in the Chiadzwa diamond fields in October 2011, Eddie Cross, MDC-T MP for Bulawayo South, received serious threats from suspected CIO operatives. Cross had tabled a motion calling for the diamond fields to be nationalized to control rampant theft since only a fraction of profits were being seen by the State.

Despite the threats, Cross went on to present a paper⁴⁵ at a diamond workshop in Harare the following year on November 23, 2012 in which he explained how mining of the claim by ACR would have benefited the economy and the entire country:

"... In September 2006 just three months after registering their claims and commencing preparations to commence mining and understanding the significance of the discovery, ACR proposed a similar arrangement to the Ministry of Mines for the exploitation of the fields as that used in Botswana through a Joint Venture between the State and De Beers mining company. In their proposal ACR suggested that a new company be formed with the equity held by both the Government of Zimbabwe and ACR in the ratio of 50/50 – with ACR being responsible for management and all mining activities. Such an arrangement would have meant that over 70 per cent of the revenues from the diamond fields would have accrued to Government.

"For unknown reasons, this proposal was rejected by the Ministry of Mines and ACR was forcibly removed from the claims which were then taken over by the Zimbabwe Mining Development Corporation, even though they had no expertise or the required capital to exploit the discovery. The Ministry immediately opened up the area to small scale miners without restriction," Cross said.

Finance Minister Tendai Biti's plan to get Zimbabwe's US\$7,4 billion external debt written off under the Heavily Indebted Poor Countries (HIPC) initiative were immediately opposed by ZANU PF in mid January 2012 when the British Embassy said Zimbabwe's qualification for HIPC status would be conditional upon full implementation of the GPA.

In February 2012, Indigenisation Minister Saviour Kasukuwere threatened to nationalise 30 foreign-owned mines that had not complied with the Indigenisation Empowerment Act which requires that a majority stake be held by black Zimbabweans. However, Development worker Liberty Bhebhe

⁴⁵ E.G. Cross, 'Diamond Production and Sales from the Marange Fields in Eastern Zimbabwe', Politicsweb, 23 Nov 2012: <http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71656?oid=342608&sn=Detail&pid=71656>

told VOA News that grabbing of foreign-owned mines was part of the election strategy of ZANU PF and that such a move would be disastrous.

Four months later in June 2012, VOA News reported that Kasukuwere had ordered all foreign-owned banks in the country to start transferring majority stakes to local people. Central Bank Governor Gideon Gono protested the move, saying the banking sector should not be nationalised and that anyone who wanted to venture into the sector should apply for a licence to open a private bank.

Capping Kasukuwere's indigenisation pronouncements and further jeopardising foreign investment in Zimbabwe, President Mugabe was reported by News Track India on June 30, 2012 to have said that the country wanted 100 percent control over the economy by local people while foreigners could come in as partners. He argued that the 51-49 percent ownership model was no longer acceptable.

ARTICLE XII (Ninth highest number of recorded violations: 541)
FREEDOM OF ASSEMBLY AND ASSOCIATION

12. Freedoms of Assembly and Association

12.1 Recognising the importance of the freedoms of assembly and association in a multi-party democracy and noting that public meetings have to be conducted in a free, peaceful and democratic manner in accordance with the law, the Parties have agreed:

(a) to work together in a manner which guarantees the full implementation and realisation of the right to freedom of association and assembly; and

(b) that the Government shall undertake training programmes, workshops and meetings for the police and other enforcement agencies directed at the appreciation of the right of freedom of assembly and association and the proper interpretation, understanding and application of the provisions of security legislation.

Increasing dissatisfaction with President Mugabe's ruling party led to the formation of the Movement for Democratic Change (MDC) in 1999 as an opposition party to ZANU PF. The MDC was formed from members of the broad coalition of civic society groups and individuals that campaigned for a "No" vote in the 2000 constitutional referendum, in particular the Zimbabwe Congress of Trade Unions (ZCTU).

To counter the growing popularity of the new party, repressive laws aimed at preventing freedoms of speech, assembly and association were implemented by Mugabe and these have always been subjectively enforced.

Despite the commitment made by all three signatories to the right of freedom of association and assembly enshrined in the GPA, Article XII continues to be systematically violated by ZANU PF.

Less than three months after the signing of the GPA, Zimbabwean security forces vowed on December 2, 2008 to crush demonstrations planned for the following day against the Reserve Bank. The ZCTU had called for peaceful protests against debilitating limits on bank withdrawals.

The following year, on June 19, 2009 The Times (UK) noted that minutes after the Secretary-General of Amnesty International, Irene Khan, had accused elements of the Zimbabwean Government of “*persistent and serious human rights abuses*”, riot police had broken up a peaceful demonstration only yards from where she stood. Ms Khan had earlier described the human rights situation in Zimbabwe as “*grim*”.

Ms Khan said there was no indication that President Mugabe intended to honour commitments to freedom of association and expression made when he signed the GPA. She also criticised Prime Minister Tsvangirai, saying she saw “*no sense of urgency*” in implementing human-rights provisions in the power-sharing deal.

In September 2009, SW Radio Africa reported that three Shabanie mine workers who were shot and seriously injured by police in Zvishavane, were dragged to court and charged with public violence. They appeared before a Zvishavane magistrate with 10 other workers who had been arrested during a peaceful demonstration at the mine complex. Two of the injured miners were brought to court in wheelchairs as they were unable to walk.

A truckload of about 20 armed riot police officers violently disrupted a Praying for Peace to Save Zimbabwe church service in Harare’s high density suburb of Glen Norah in April 2011. SW Radio Africa reported that an estimated flock of 500, including four bishops and 46 pastors had congregated to pray for peace amid the resurgence and escalation of politically motivated violence, arrests, polarisation and the general breakdown of peace. The riot squad, which stormed the church during prayer and ordered everyone to disperse, was armed with rifles, batons and tear gas, which they fired into the church, generating a stampede by the terrified worshipers.

Teargas was used again by the police late October 2011, this time at a rally that was due to be addressed by co-Home Affairs Minister Theresa Makone, who had clearance in writing from the police to hold a rally. However, more than 100 ZANU PF youths from the notorious Chipangano gang were bused in to interrupt the event and they clashed with the MDC-T supporters who defended their right to assemble. The police fired teargas and rubber bullets and several people were injured.

On October 30, 2011 The Zimbabwean newspaper reported that MDC supporters had been attacked in Matabeleland North in the wake of a visit by Prime Minister Tsvangirai and that

widespread arrests had followed. Tsvangirai had himself had fierce run-ins with the police and several district organisers had been rounded up for hosting him. The journalist noted that this was part of a general crackdown on the MDC countrywide.

Bulawayo24 News reported during the same week that police in Lupane had blocked an MDC-T rally despite a court order allowing for it to take place. Thirty-five police officers, all in riot gear and carrying guns had besieged the venue at St Paul's Mission Hospital and disrupted proceedings.

The following month, in a report published by SW Radio Africa on November 7, 2011 the MDC-T blamed ZANU PF for violence that had rocked Chitungwiza outside Harare, forcing the party to cancel its rally at Chibuku stadium. *"The violence, reportedly orchestrated, targeted, financed and planned by ZANU PF, was sparked when its militia, led by the Chipangano gang, attacked MDC-T rally organisers. Scores of reinforcements were bused in to Chibuku stadium, armed with iron bars, machetes and stones,"* SW Radio said. *"Five party vehicles and the public address system were destroyed or had parts stolen, along with money, flags and banners, in full view of the police...."*

Members of international charity group Oxfam were detained briefly by police and the local leadership interrogated during the week of November 11, 2011. Ten foreign participants, who were attending an internal planning meeting in Harare, were rounded up and their passports seized. They were eventually released after Lawyers for Human Rights pointed out that it was not a public meeting.

In a display of supreme arrogance – and in defiance of the GPA'S Joint Monitoring and Implementation Committee (JOMIC) – riot police in Bulawayo assaulted members of the activist group Women of Zimbabwe Arise (WOZA) as they emerged from a meeting with JOMIC personnel on February 7, 2012. WOZA's two leaders, together with seven members and six bystanders who were outside the offices and behaving peacefully, were arrested. The purpose of their meeting with JOMIC was to ask them to forward complaints about ongoing police abuse to the principles in the GPA.

In our final example, heavily armed police disrupted a rally organised by the MDC-T in Gutu West, Masvingo province on May 11, 2012 despite the fact that police permission had been granted for the event. The Zimbabwe Standard noted that the MDC-T had accused the police of embarking on a crusade to disrupt its rallies ahead of the forthcoming elections. In contrast, ZANU PF is allowed to hold rallies without restriction.

In addition to recognising the importance of freedom of speech and association, Article XII also requires *that the Government shall undertake training programmes, workshops and meetings for the police and other enforcement agencies directed at the appreciation of the right of freedom of assembly and association and the proper interpretation, understanding and application of the provisions of security legislation.*

To the best of our knowledge, no training programmes in this regard have taken place. Instead, a top police official confirmed in June 2009, four months after the implementation of the GPA, that the police support unit continued to get directives from ZANU PF hardliners to beat and detain anyone suspected of planning a demonstration.

In a press release dated September 14, 2012 Amnesty International warned: *“The culture of impunity that permeates Zimbabwe’s security forces needs to be urgently addressed. In the run up to the constitutional referendum and elections when tensions are high, it is imperative that Zimbabwe is policed by a body that upholds the highest standards of impartiality.”*⁴⁶

ARTICLE VIII (Tenth highest number of recorded violations: 418)
RESPECT FOR NATIONAL INSTITUTIONS AND EVENTS

8. Respect for National Institutions and Events

8.1 In the interests of forging a common vision for our country, the Parties hereby agree:

(a) on the necessity of all Zimbabweans regardless of race, ethnicity, gender, political affiliation and religion to respect and observe Zimbabwe's national institutions, symbols, national programmes and events; and

(b) that all Zimbabweans regardless of race, ethnicity, gender, political affiliation and religion have the right to benefit from and participate in all national programmes and events without let or hindrance.

Despite agreeing that all Zimbabweans, regardless of political affiliation, have the right to participate in all national programmes and events, ZANU PF continues to operate in a blatantly partisan manner that demonstrates flagrant disrespect for national institutions, programmes and events.

During January 2009, just three months after the GPA was signed, the controversial Governor of the Reserve Bank of Zimbabwe (RBZ), Gideon Gono, was again fingered in an embarrassing scandal. This time it emerged that he had given Foreign Exchange Licenced Warehouses and Shops free of charge to ZANU PF members, friends and relatives. Afrik.com noted the licences were pegged at

⁴⁶ Amnesty International, ‘Members of Zim public at risk as police crack down on gang’, SW Radio Africa, 14 Sept 2012: <http://www.swradioafrica.com/members-of-zim-public-at-risk-as-police-crack-down-on-gang/>

US\$20,000 and commented that *“to date not one of those who is trading has paid such an amount.”* A source at the RBZ said that Gono was empowering his ZANU PF cronies as part of a looting strategy and that business people linked to opposition politics had been sidelined.

On April 20, 2010 VOA News reported that members of Parliament’s Mines Committee had again been prevented from carrying out a fact-finding mission in the controversial Marange diamond fields. Committee members had gathered in Harare to travel to Manicaland, only to be told the Ministry of Mines had not cleared them to enter Marange.

The beleaguered constitutional outreach programme was again in the news on May 13, 2010. The Zimbabwe Independent newspaper reported that war veterans’ leader, Jabulani Sibanda, was forcing villagers, traditional leaders and government workers to attend campaign meetings in Manicaland ahead of the programme in *“defence of the country”* as the constitution-making process was a matter of *“life or death”* for Mugabe.

On August 5, 2010 Radio VOP reported that war veterans and a ZANU PF councillor in Umguza in Matabeleland North had ordered MDC supporters to vacate the area before August 15 or risk having their homes burnt. This was to ensure that they did not attend the Constitutional Parliamentary Committee (COPAC) meetings to gather views for the new constitution.

A large crowd of villagers in Nyanga North constituency in the eastern highlands managed to stop a group of seven axe-wielding militants from disrupting a constitution-making outreach programme during August 2010. The Zimbabwe Independent reported that the men had been apprehended and handed over to the Nyamaropa police station.

In the wake of the ongoing disruptions of the constitution outreach programme, which had been designed to enable all Zimbabweans to give their views, Prime Minister Tsvangirai said on September 27, 2010 that a new constitution was likely to be a negotiated document between the three parties in the coalition government, and not the people-driven exercise that was originally promised.

For Parliamentary procedures to operate effectively, a culture of tolerance, respect and decency needs to be maintained and respected at all times. An example of ZANU PF’s blatant disrespect for Parliament occurred on July 23, 2011 when an MDC legislator and five journalists were beaten up by hordes of ZANU PF supporters who invaded the Parliament building to disrupt a public hearing by a parliamentary committee on the Human Rights Bill. Other journalists were forced to seek refuge in offices within the building as the ZANU PF supporters ran riot while police stood by. The meeting had to be abandoned.

We round off this final section with threats by President Mugabe to undermine the constitution-making process if the draft constitution did not include ZANU PF’s position. In early December 2011 he insisted that the conference should send a clear message that elections had to be held in 2012

without fail. *“The Government of National Unity (GNU) has become a drag on our nation. It must give way to an elected administration free to govern unhindered...,”* he said.

CONCLUSION

Crisis in Zimbabwe Coalition’s “Zimbabwe Transition Barometer – Trekking the Transition”, published in October 2012, commented on the overall objective of the GPA as follows:⁴⁷

“The signing of the Global Political Agreement (GPA) in September 2008 and the subsequent formation of the Government of National Unity (GNU) marked what many termed as the formal transition of Zimbabwe from a repressive and authoritarian state to a democratic one. The projection was that the GPA would provide the medium through which the process towards full democratisation would be attained. Although the GPA was seen as a compromise agreement, most democrats assumed it offered the first in a series of ‘step-wise’ movements to democracy.

*“The key to realising such a projection was hinged on the capacity to fully implement the Agreement. With SADC and the AU as guarantors of the Agreement, their role in influencing full implementation was always going to be pivotal....”*⁴⁸

“Whereas SADC’s thrust during the period 2009-2010 was to push for the full implementation of the GPA; in 2011 the regional body was consumed with the conception of electoral reforms. In 2012 attention shifted to just one of the election road map issues - the constitution – assumed to be the central component of the reform process.

“The failure by SADC to influence implementation of each phase of reform added to ZANU PF’s deliberate reform diversion strategies and threaten to override the imperative transition to democracy. The outstanding issues in the election road map and the incessant disruption of the constitution writing process will inevitably compromise key steps of the democratisation process.

“There are indications that SADC’s key interest in Zimbabwe may now merely be the need to restore political stability; without necessarily establishing sustainable democracy foundations. The transition to a full democracy is therefore under threat as it may in the end be relegated to a mere stability-building process. This may still result in a functional state, however devoid of key democracy tenets...”

⁴⁷ Crisis in Zimbabwe Coalition, ‘Zimbabwe Transition Barometer’, OSISA, pg 2, October 2012: <http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

⁴⁸ Crisis in Zimbabwe Coalition, ‘Zimbabwe Transition Barometer’, OSISA, pg 2, October 2012: <http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

A democratic transition occurs, at least, when there is a competitive, free and fair electoral environment that leads to a legitimately elected government taking state power in a peaceful way as occurred in South Africa in 1994.

Zimbabwe Transition Barometer – pg 1

The Executive Summary of the report warns:

“The Zimbabwe political landscape is gravitating from the GPA yard into political turmoil with potential to replicate the June 2008 presidential election run-off. There is a shift from the commitment to fulfil the GPA as political temperature rises. The thread that seems to hold the GPA together is now only meant for the convenience of election leverages rather than creating sustainable democratic processes.

“There is a rise in political violence and intimidation cases mainly related to militia groups connected to ZANU-PF leaders as well as growing violations of democratic tenets by the security sector and other political party members....”⁴⁹

The Transition Barometer examines four transitional outcomes, summarised as:

- A Precluded Transition – where there is a cul de sac or dead end...
- A Blocked Transition – where there is no apparent intention of implementing elections or surrendering power....
- A Flawed Transition – where reforms are allowed to take place ... (but) the incumbent is still determined to control and manipulate the laws such as electoral laws
- A Democratic Transition – where there is a competitive, free and fair electoral environment that leads to a legitimately elected government....

The seven key transition process signposts / barometer indicators:

1. National healing

⁴⁹ Crisis in Zimbabwe Coalition, ‘Zimbabwe Transition Barometer’, OSISA, pg 2, October 2012:
<http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

2. Preparation of new voters' roll
3. Constitution process
4. Monitoring the GPA
5. National
6. Media reforms
7. Land question

Based on the seven indicators used to measure the democraticness of the Inclusive Government and transition trajectory, Crisis in Zimbabwe Coalition concluded that Zimbabwe is heading for a *Flawed Transition* because:

- The State is functional
- There is no civil war
- There are no armed warlords
- Zimbabwe is geared for elections at the end of the Inclusive Government
- Reforms are taking place, *but* manipulation of the electoral, constitutional and institutional reform to suit the incumbent
- No democratic environment suitable for a free, fair and competitive election that will result in the instalment of a democratically government.

“(In summary), it is evident ZANU PF is still determined to manipulate the reforms such as media reforms, the constitutional reform process and electoral laws. ZANU PF is determined to employ all tactics and strategies to ensure that they retain state power in an artificial election....”

The Crisis in Zimbabwe Coalition report concludes:

“However, the trajectory is not cast in stone. With the appropriate interventions by civil society, the regional and international community as articulated in (our) report, Zimbabwe can still head towards a democratic transition, at least in the sense of the instalment of a democratically elected government....”⁵⁰

SOKWANELE

⁵⁰ Crisis in Zimbabwe Coalition, ‘Zimbabwe Transition Barometer’, OSISA, pg 20, October 2012:
<http://www.osisa.org/hrdb/zimbabwe/zimbabwe-heading-flawed-transition>

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