



Building International and Regional Consensus

Policy Dialogue Report No. 10:

Workshop on Swaziland, Zimbabwe, and the DRC



3 October 2012

Burger's Park Hotel, Pretoria

SPEAKERS & FACILITATORS:

First Session:

*Facilitator: **Bella Matambanadzo** (Zimbabwean feminist and civil society leader)*

Ambassador Aldo Dell'Araccia (Head of Delegation of the EU in Harare).

Itai Zimunya (Programme Officer for Zimbabwe, Osisa).

Ambassador Welile Nhlapo (National Security Adviser to President Zuma, and South Africa's Special Representative to the Great Lakes Region).

*Keynote speaker: **Advocate Pansy Tlakula** (Chairperson of South Africa's Independent Electoral Commission, and a member of the African Commission on Human and People's Rights, Special Rapporteur on Freedom of Expression and Access to Information in Africa).*

Second Session:

*Facilitator: **Bishop Rubin Phillip** (Anglican Church Dean of the Province of Southern Africa and Chairperson of the Board of SALO)*

Solly Mapaila (Second Deputy General Secretary of the South African Communist Party, and National Chairperson of the Swaziland Solidarity Network).

Hubert Tshiswaka (Programme Manager, Regional and International Advocacy for the DRC, Osisa).

First Session

EU measures and Zimbabwe

Bella Matambanadzo, and **Ambassador (Amb.) Roeland van der Geer**, European Union (EU) Ambassador to South Africa (SA), introduced **Amb. Aldo Dell’Ariccia (EU Delegation Harare)** to SALO’s Building International Consensus (BIC) workshop on Swaziland, Zimbabwe, and the Democratic Republic of the Congo (DRC).



Amb. Dell’Ariccia began his talk with a clarification that the EU does not have ‘sanctions’ against Zimbabwe (“[w]hen you have sanctions, for instance, you cannot have trade ... The trade between Zimbabwe and the European Union has doubled since 2009”), but rather that they are what the EU calls ‘measures’. There are two kinds of measures – restrictive measures and appropriate measures. The former are targets against individuals who have been involved in serious violations of human rights. The latter refers to cooperation between the EU and the countries of Africa, Caribbean, and the Pacific as set out in the Cotonou Agreement, and under Article 96, how this is impacted if there is disruption of the rule of law, a violation of a democratic principle, or a serious violation of human rights. Appropriate measures do not permit official cooperation with a country under these measures. Amb. Dell’Ariccia explained that these measures were applied in Zimbabwe for the very serious violations of human rights starting in the year 2000 that continued into the electoral process in 2002.

He asserted that these measures are targeted, and do not affect the general population:

“it is only the fact that the cooperation is not channelled through the government, but the cooperation of the European Union has been maintained all these years, and in a sense it has even increased since the establishment of the government of national unity and the signature of the Global Political Agreement between the three parties ...”

When the EU took note of the evolution of the situation after the 2008 elections with the establishment of the Global Political Agreement (GPA) and the Government of National Unity (GNU), it declared its intention of re-engaging with Zimbabwe. Since 2009, EU cooperation with Zimbabwe has been over one billion dollars, devoted to sectors like health, education, water and sanitation, trade and governance.

When the measures were reviewed in February 2011, the EU de-listed 54 people from the list of the restrictive measures; and in February 2012, another 32 people and 20 companies were de-listed. It was also decided that for the appropriate measures, there would be an extension of only six months instead of one year to reassess the situation. In July 2012, due to the further progress of the establishment and the drafting of the Constitution, with the first draft being produced by the Constitution Select Committee (COPAC) and signed by the negotiators, and in particular considering the firm commitment of SADC and the facilitator in this process, the EU decided to suspend Article

96 of the Cotonou Agreement. This was a major breakthrough because it was the first time in ten years the EU could work together with the government of Zimbabwe in the programming exercise for the preparation of the overall strategy of the implementation of the European Development Fund, funds that will be applied from 2014 to 2020 to the countries of Africa, Caribbean, and the Pacific.

Amb. Dell’Ariccia noted that the EU recognised in particular the role of the Southern African Development Community (SADC) and of SA in the political processes where progress was being made.

On the state of affairs in Zimbabwe, and the role of SADC, AU, and the international community

Ms Matambanadzo then introduced **Itai Zimunya** who gave a general update on the state of affairs in Zimbabwe, some likely scenarios, and the role of SADC, the African Union (AU), and the international community.



Mr Zimunya remarked that the negotiating parties seemed to have come to an agreement that the Second All Stakeholders Conference would take place on the 17th and 18th or the 18th and 19th of October in Zimbabwe. A Civil Society All Stakeholders Conference had also been organised for the 15th and 16th October in Harare. He noted that the day before, the Judge President of Zimbabwe had declared that the President of Zimbabwe may only announce the date of the next election by the 31st March 2013.

Mr Zimunya put forth that “even you know with four years of the GPA we still see horrible scenes of violence,” but that at the heart or the crux of the Zimbabwean crisis is impunity. Among factors which contribute to impunity, he raised the role of illicit industries especially around mining, and the role of Russian and Chinese investments in Zimbabwe. “We can’t put that to rest, we can’t ignore it. It is significant and I think it’s worthy of international attention, both at the African Union and SADC and at international level.”

On Zimbabwe’s economic state of affairs, he pointed out that the country has 11 billion dollars in debt against a GDP of 13 billion dollars: “in terms of economic development, Zimbabwe regressed by a factor of nine billion dollars in the past twelve years.”

Coming back to the Second All Stakeholders Conference, he predicted that there would be violence, because:

“[w]hat the Second All Stakeholders Conference means, or signifies to the political actors in Zimbabwe is in fact, you know, the same as an election – whether to maintain the status quo or whether to transfer power from what I could say, the illegitimate political elite to the people.”

Reminding everyone that Zimbabwe has had six elections since 2000, accompanied by much contestation, violence, and the workings of the state's propaganda machinery ("[w]e still have one television station, by the way, in Zimbabwe. That was inherited in 1980 – we still celebrate that thirty-two years down the line"), he presented some recommendations for SADC and the AU:

"But even after that intense fight from the 17 to the 19 of October there is a highly likely scenario that the negotiations would go back to Parliament and possibly to the principals, but since we all know that the arena of Parliament and the principals has been a site of struggle for the past four years, I think it is here that I put recommendation number one for the SADC to come and put time frames to ensure that there is a new constitution in Zimbabwe -- a new constitution that chiefly facilitates a free and fair election..."

He continued:

"the African Union and the SADC must take on and extend or expand the leadership they displayed in Egypt post the 2008 election, and the proposition is very simple and basic – that if violence was not permitted in 2008, then I think it must not be permitted in the coming two weeks in the Second All Stakeholders Conference, and even at the coming election ... what is contested in Zimbabwe, or the main issue, is not the timing or the date of the election, it is the conditions ..."

Another recommendation was that SADC,

"especially ... South Africa, Tanzania, Mozambique and ... Zambia, because these are the very same countries which assisted in the construction of the political systems in Zimbabwe, to continue with the work they did in the 70s and 80s to assist their colleagues in Zimbabwe to celebrate the notion of transitions."

He also stressed that SADC needs to deploy more long-term observers in Zimbabwe as currently there are only two people – from Tanzania and Zambia – and their role has been dysfunctionalised by state intervention:

"we have ten provinces. If we expect elections by June next year it is not an onerous request you know, that we have at least ten people in Zimbabwe, but deployed six months before who actively engage the discussion or the negotiation team in Pretoria, but not only one-way traffic but as a two-way traffic where they engage the state, the civil society and the diplomatic community in Zimbabwe – all to ensure that the next election in Zimbabwe is free and fair."

Last but not least he returned to the staggering debt of eleven billion dollars, and the need for SADC to seriously engage what is happening on the ground and assist.

On the role of the international community, he believed that Europe and the United States must - and the best that they can do is to - support SADC. He thanked the international community for their past and current support on education and health in the country.

Regarding debt management, he strongly disagreed with the IMF's prescriptions for Zimbabwe, and advocated we go "back to the table and have more like a developmental model". In addition, what is needed is assistance, or partnership from the international community, to engage Russia and China on their role in Zimbabwe, because:

"It is a threat and all the issues that I discussed around the African Union in Zimbabwe are actually threatened by the bilateral engagements of these two superpowers, if I can call them, in Zimbabwe. Especially around running what I can call a parallel government or a parallel ministry of finance. It is worrying both at a domestic and international level perspective. I do not bring any prescriptions on what needs to be done, but possibly it's a discussion point on itself alone."

Lastly, Mr Zimunya emphasised that the social crisis in Zimbabwe – such as with respect to health, water, and other social services – is not often discussed, but that more needs to be done to bring that to the fore:

"So whilst we articulate clearly and put the political permutations around the road map in terms of the Global Political Agreement ... there is life to live, and we have lots of vulnerable people who continue to wallow and suffer on a daily basis, and possibly I wish even the negotiation team's mission could be expanded to include such ... because ... whilst we are celebrating ... gains in terms of the transition in Zimbabwe it is also quite sad that we continue to lose lives in Zimbabwe."

Africa- and SADC-EU relations and partnerships in dealing with regional conflict

The next speaker, **Amb. Nhlapo**, began with a brief contextualisation of the events leading up to the Organisation of African Unity (OAU) meeting in Egypt in 2000, and its impact or some "practical implications" they had on the relationship between Africa and the EU, "[u]nintended but ... because of the sanctions regime that was at the heart of it ... to the extent that even today ... the question again arose, why this imbalance in this relationship?"



Likewise, he stated that the SADC-EU relations also suffered.

"The question of the suspension of these sanctions or measures as you prefer to call them was a continuous discussion and debate that we had with the EU ... Very difficult. And I understand and understood why it was difficult for the EU also ... I must acknowledge that the response of the EU has been very encouraging to us because we began to find one another in terms of the difficulties that this thing was posing for SADC, because SADC could not move as long as the issue of the sanctions became an obstacle to the implementation of the GPA, and SADC itself was an indirect victim."

Amb. Nhlapo emphasised the importance of true partnership in moving forward in situations of impasses and to overcome the politicisation thereof:

“partnership is very critical in dealing with some of these conflicts; otherwise if we are going to move in different directions we are not contributing, and somehow we might play into the politics that promote stagnation or constraints in the negotiations themselves, unintended I am saying, unintended.”

He concluded his talk by encouraging civil society and ordinary citizens to become more pro-active in directly approaching SADC:

“you are SADC members, citizens of SADC. You also have the right to bring issues to the Executive Secretary of SADC who will then bring them to the appropriate organs so that there is a balance on what SADC is working on. Press statements or any other pronouncements which are not channelled for SADC to be able to respond to them in an institutional manner weaken your case to some extent. So I think you should be able to consider, including on [the question of deploying more long-term observers] ... it will be really from you.”

The African human rights system, and the lack of freedom of expression and access to information in Swaziland

Advocate (Adv.) Tlakula, the keynote speaker, then discussed her mandate and the work done under it in Swaziland in the area of freedom of expression and access to information. When she became a member of the African Commission on Human and People’s Rights (African Commission) and Special Rapporteur on Freedom of Expression and Access to Information in Africa, only five countries on the continent had adopted access to information laws:



“We discovered that the difficulty with that was that most countries said that they really did not, some said they did not have the capacity to develop a law because this was a new phenomenon on our continent. So what we decided to do was to develop a model Access to Information Law in Africa ... this law is produced by our own experts spear-headed by me ... After we developed a draft we went through consultative meetings in all five regions of the continent. We met with civil society organisations, government institutions, human rights commissions, electoral commissions to consult them on the model law. We did this work last year finishing this year in July ... we have finalised the draft, and we are going to submit this to the Commission at this coming session, and we are hoping the Commission will then adopt the model law, and that document will be available for all the countries that want to develop their own laws on access to information.”

Secondly, Adv. Tlakula said that one of the major challenges and concerns on the continent is the continued existence of

“criminal defamation laws, criminal libel, insult laws, sedition laws, publication of false news, all these are criminal laws that criminalise free speech, and we found that most journalists on the continent are arrested and prosecuted using these laws.”

Therefore a project was launched in Tunisia in May 2012 to advocate for the decriminalisation of these laws on the continent. The multi-pronged strategy will involve advocacy work in countries that are receptive to repeal of these laws, holding seminars, and looking at the possibility of strategic litigation where there may be prospects for success, both at the domestic and at the level of the African Court on Human and People’s Rights (African Court).

Adv. Tlakula then spoke about the historical involvement of the African Commission with the situation in Swaziland. The first matter that came before the Commission was a complaint submitted by the Lawyers for Human Rights of Swaziland in 2002 alleging a violation of a number of rights in the African Charter on Human and People’s Rights (African Charter). Swaziland is a member state to the AU and has ratified the African Charter. The first issue in the complaint was the Proclamation of 1973 by the late King Sobhuza assuming supreme power in the Kingdom of Swaziland, and control over the legislative, executive, and judicial spheres. The second issue was that the Proclamation outlawed political parties, and violated the right of the people of Swaziland to freedom of expression, freedom of association, and freedom of assembly, and by doing so, violated the rights in the African Charter. The Swazi people did not have effective judicial remedies because the King had the power to overturn all court decisions.

After two years had passed without any response or submissions from the government of Swaziland, the African Commission decided the case on the merits and found that the government of Swaziland had violated the rights in the African Charter. Articles of the Charter that were violated included those dealing with the independence of the judiciary, the right to freedom of expression, freedom of association, and freedom of assembly. Recommendations that the Commission made to the Kingdom was that the Proclamation of 1973 be brought in conformity with the provisions of the African Charter, that the state engages with stakeholders, including civil society organisations, in the process of drafting the Constitution, and that the Kingdom should inform the Commission of the steps it was going to take to implement these recommendations.

Again, nothing was heard from the Kingdom on the Commission’s findings and recommendations. Then in 2006, Adv. Tlakula undertook the first promotional mission to Swaziland where she met with a cross-section of the population, government, civil society organisations, lawyers and others, “and the issues were quite crisp. The issues were the same issues that were raised in the complaint that was lodged by the Lawyers for Human Rights.”

“The people of Swaziland were in agreement that they respected the King, and they recognised also the institution of the King, but what they really did not agree with was the concept that the King was an absolute monarch and had assumed control over all ... over the judiciary, the executive, and the legislation ... That was really at the heart of their

problems, that we are the people of Swaziland, we recognise the King, it is our institution, we respect the institution, but this institution has to operate within the modern constitutional framework where there is a separation of power, and also that the rights that are guaranteed in the Charter, that the people of Swaziland should be able to ... form political parties. They should be allowed to contest elections as political parties, and that the right to freedom of association, the right to freedom of expression, the right to assemble freely, the right to form associations should also be recognised, that trade unions in that country should also be recognised. That was really the crux of ... what made the people of Swaziland quite unhappy, and our recommendations spoke to that. If you look at the recommendations that we made after that promotional mission, it was the same recommendations that we made also in the Lawyers for Human Rights case ... That was now in 2006 ... we then submitted our recommendations to the government of Swaziland, and we did not hear from them.”

At the last session of the Commission held in May 2012 in Banjul, the Gambia, most of the large contingency of NGOs from Swaziland who attended the session made the same statements on the situation in Swaziland. This prompted the Commission to adopt a resolution on the human rights situation in the Kingdom. To date, still, there has been no response or movement from the Kingdom.

Adv. Tlakula asked,

“Now I am raising all these issues to say to you, and nothing has happened. And the question is, is the system working? I think that’s what we have to ask ourselves, is that system, our human rights system on the continent, is it working? I don’t want to paint a bleak picture that gives the impression that no progress has been made on the continent. There are countries that have made a lot of progress, but there are others as well, where we are still struggling. If you look at the situation on the African continent almost all the countries hold elections regularly. The economic situation in some of the countries is improving. Institutions of governance have been established, weak as they might be in some parts of the continent. So there is progress, but I think our frustration as people who work within the human rights system is the extent to which the recommendations that we make, the work that we put in, it’s taken seriously ... what is it that we can do to strengthen the African human rights system to make it more responsive, to make it more effective?”

She explained that the problem with the instrument that established the African Court, for instance, is that it requires that upon ratification of the protocol establishing the Court a state party must also make a declaration to give its citizens and NGOs direct access to that Court. Very few countries made that declaration. The difficulty is that most of the cases before the Commission involve countries that have not ratified the Protocol.

“Eighty percent of the cases before the Commission are against countries that have not ratified the protocol, so as is the Court has been sitting for five years, it has heard three cases thus far, because of the problems that I have articulated. We keep on working, we keep on pushing, we [are] making progress slow as it is, but our appeal really, and I don’t know who am I appealing to here, because we are talking to ourselves, is what is it that we

can do to strengthen the African human rights system to make sure that the Court works, because it's our only hope in effective enforcement of human rights on this continent."

Q&A to the First Session

During the Q&A to the First Session, questions were asked by audience members with respect to, amongst others:

- Sub-regional processes under SADC, such as the SADC tribunal, "[a] perfect structure is established and then the same people that established it subsequently find it not so useful when it begins to probe them."
- The question of "foreign investment in our continent that exacerbates and entrenches the contradictions as well as funds and assists in political instability."
- Whether there is political willingness by African heads of states to take some form of action against a state that deliberately chooses not to take any action, e.g., Swaziland not responding to communications from the African Commission.
- The question of access to SADC by civil society, because "it gets very difficult to a point where they don't even listen to you, so how do they propose, people who work within these institutions, how do they propose us as civil society engage with them. This open door policy, but the door is so closed that you can't even knock on the door so how do we do that ... There's not even a door."



In response to the questions raised by Adv. Tlakula on whether the African human rights system is failing us, Amb. Nhlapo again urged civil society to persist in engaging and assisting institutions such as the African Commission and the AU:

"I think civil society in the countries that have been affected. Having read the reports and having realised that nothing is happening, I think in the same way you've got the opportunity and the right, to write to the Commission directly to raise the issues in support of the frustration that the Commission might be facing because you can't just be passive observers of a sad situation that unfolds when there are attempts to ensure that the mechanisms of the AU intervene. It's a question of bringing the organisation back to the people ... Doors are there, look for them, you will find them, kick them, they will have to open at some stage ... The level of activism is part of the problem. These are our own organisations ... There is an institution lying there, in the AU, very dormant and it has civil society that is supposed to be represented in it on issues of human rights and conflict resolution, but you hardly have any engagement at that level, so I think we must begin to also study the institutions of our own organisations and find an opening that we may be able to use to bring issues there."

In turn, Adv. Tlakula added the following regarding the need for civil society's regional engagement to become more strategic and more inclusive:

“Problem sometimes is that civil society organisations, we sit and we speak to ourselves. You know if you convene a meeting where you only have civil society organisations you are not going to achieve much. It's important to have government representatives involved and participating in those meetings because we begin to understand where the government is coming from and begin now to engage, you know, in dialogue and you know, in that way, you are able to make progress. In the work that I have done, am doing, I have come to appreciate more and more the value of sitting down and talking even with the people who most disagree with you, you sit down and if they have to tell you all the unpleasant things, what they think about you, you just sit and absorb it, and keep on keeping on, and you find that you make small gains ... So I think we need to devise a strategy as civil society organisations on what is it that you are going to do to give the revival of the SADC tribunal a push, and not by talking to ourselves, but also involving member states in that regard.”

On the issue of foreign funding in the electoral process, Adv. Tlakula advised that:

“we should also look at that role, a role that has to be supportive and constructive, at the same time leave the countries space, because I think there is a perception rightly, or wrongly, that because people give money then they want certain outcomes. It's a reality, and we have to talk openly about it, because if we sweep it under the carpet it's not going to help us.”

On Swaziland, and accessibility to members of the African Commission, she said,

“My door is open. I am one person ... but I try to the best of my ability to be open to civil society organisations. The group that came from Swaziland, you know, to attend the session of the Commission would know that they lobbied me flat out to say what is this, and I also you know, advised them on how they should approach their issues, and some [of] the things they did were able to bear some results.”

Amb. Dell'Araccia distinguished between the EU, which does not finance political parties, and member states that may be doing so. On supporting institutions, he stated that:

“we are ready to support SADC if SADC asks for it for an election observation mission in Zimbabwe. We trust SADC that the fact that the European Union is supporting that will not lead them to issue a report of conclusions which are what they think we would like. We trust the independence of SADC and of the SADC observation mission if it is fielded and we are ready to do that.”

On the EU's measures, Amb. Dell'Araccia stated that:

“What I can tell you as European Union, we said and we repeat, if there are transparent, peaceful and credible elections, and that the results are accepted by all the stakeholders, and that the results are implemented, in the sense that the winner, or the winners establish a proper government, for us there is absolutely no more reason to maintain the measures against Zimbabwe and the relationship will be regularised.”

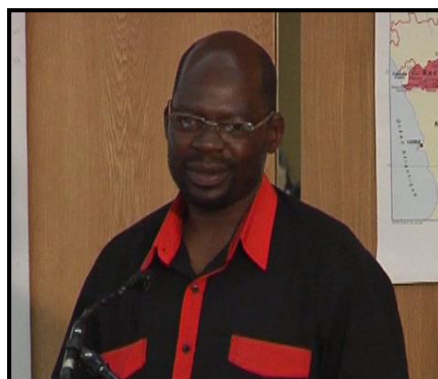
On the role of the international community, Mr Zimunya added that:

“civil society in Zimbabwe, or the NGOs, you know, are funded mainly by international actors, the EU included, Osis and lots of other international funders. Now that phenomenon is not a latter-day phenomenon. We find that these NGOs still got support, you know, during Ian Smith’s time before 1980, before independence. So we can’t limit the whole of international engagement in Zimbabwe to the post-independence era. They actually contributed, they supported the liberation struggle ... So I think it is a much bigger discussion, and I think to give it justice needs to be discussed at that broader level, but of course I do take into cognisance Advocate Tlakula’s engagement that probably the funding of elections is becoming problematic and needs to be engaged ...”

Second Session

For human rights in Swaziland

Bishop Rubin introduced **Solly Mapaila** who began his talk by remembering a friend and comrade, Musa Dlamini, a lawyer in Swaziland who formed Lawyers for Human Rights together with Thulani Maseko who currently holds “the flame of the Lawyers for Human Rights in Swaziland under extremely difficult conditions”. Mr Mapaila stated that Mr Dlamini was killed by Mswati’s dictatorship in 2008, and that it is vital that African human rights institutions be able to act with more viable capacity.



“I think it’s important to say on this aspect for all of us who are responsible for a variety of institutions that action is more important than good ideas folded in books. If perhaps the AU Commission had taken drastic measures against Swaziland, one of southern Africa’s great minds, M.J. Dlamini would still be alive. A top human rights lawyer ... It’s important therefore that we strengthen this question of institutions, that we give our institutions some capacity, let them be viable. But for them to be viable we must see action. Many of the institutions that we have promulgated, either at the AU level or at the UN and different governments are just toothless. They’ve left the African continent to bleed almost to death without doing anything when they have the legal framework to do so ... The question of Swaziland, for instance ... The country has been under a state of emergency now for almost 39 years and this country is embraced by all democratic multi-lateral institutions. This country is a pariah and should not be allowed to participate. The worst was when it actually

served in the UN Human Rights Commission. This is how we disrespect the noble ideas of humanism ... Currently we have diplomacy that is ineffective. Multi-lateral institutions that exist but practically dysfunctional. We have to respond to these realities.”

He also mentioned that the Swaziland Solidarity Network recently launched the Save Amos Mbedzi Campaign, for Mr Mbedzi who was sentenced to 85 years and six months’ imprisonment, and called on SA to give more support to the human rights struggles on the continent:

“We want to address also the South African government, particularly its international relations department. We think South Africa can do more on the struggle for human rights in the continent, in the neighbouring countries ... We had to have several meetings with the Africa section of international relations on this matter, and I must say that we were not happy. They just talk about basic diplomat protocol. We need diplomacy that transcends protocol. We need diplomacy that is subjected to democracy. Diplomacy that respects human rights ... if South Africa is truly committed to a just and human rights based culture within the region it should take drastic measures including possible diplomatic ties, cutting of ties with Swaziland. This will actually send a clear signal that we don’t tolerate dictatorship in our midst.”

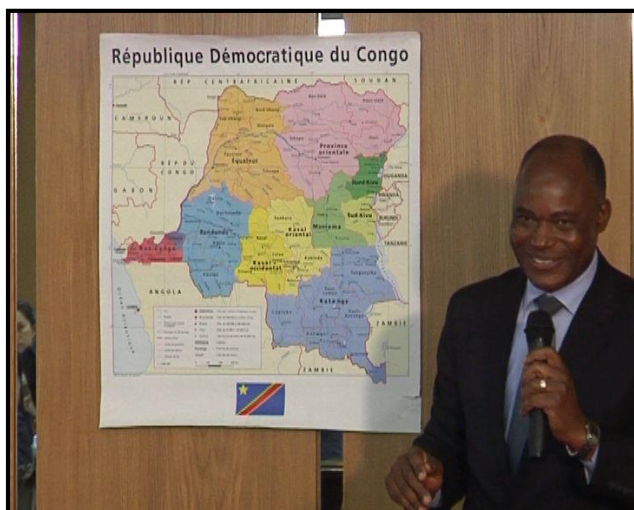
On the previous elections in Swaziland he retorted,

“I can tell you that the AU, in fact SADC declared those free and fair. How do you declare elections where there are no political parties participating, free and fair; where they are prohibited to participate, where they are banned?”

Mr Mapaila called for: the international community to support the liberation movements in Swaziland, particularly Pudembo; the removal of the Proclamation of 1973 that bans political parties and other forms of freedom; support in uniting the democratic forces in Swaziland, “because the autocratic regime of King Mswati has been doing its bit to divide the democratic forces.”; the unconditional release of all political prisoners and in particular Amos Mbedzi; the unconditional return of all exiles with the guarantee that they will not be arrested; and for engagement with the Traditional Council in Swaziland.

Foreign intervention, exploitation, and human rights violations in the DRC

Osisa’s Mr Hubert Tshiswaka then briefly shared the DRC’s experience of outside intervention in its liberation movement, beginning with the Mobutu dictatorship that came into power with foreign support in 1965, staying on for thirty-two years.



“When we were very tired the same way I hear [my] colleague complaining about the monarch [in Swaziland]. From the DRC we were complaining about the Mobutu dictatorship. People from inside was thinking any support to chase Mobutu would be very helpful. Then one of our neighbours, this Uganda, they also had the same problem in the past ... In our other neighbouring country, this is Rwanda, they had also a similar

problem. The West helped training to oust dictator from Rwanda, that is where the story with the DRC started, the one I want to share with you today. When they chased the dictator in Rwanda in '94, these trained soldiers who came from Uganda with the support from outside, that support that we are looking for in Swaziland, helped them to invade DRC in '96. So our neighbours here, Uganda, Rwanda and Burundi, they came together to support a liberation movement ... After liberating the DRC in '97, those soldiers stayed in power ... when they liberate the country, the thing that they did well was to kill the army, intelligence, and police, and the country is liberated in '97. If a country has no army, no police, no intelligence, what's remaining – politicians who are fighting for interests ... Our neighbours who came to liberate us stayed in the army, in the regions, and in the police. In '97 the Chief of Staff of the DRC army was the current Minister of Defence in Rwanda so that minister was the chief of military. When Laurent Desire Kabila tried to discuss how the liberators can go back home we saw another war in '98. In the end the peace agreement wrote all those liberators who came from our neighbours to stay in the army. That solution was not good. That is undermining all the process that the region was trying to put in place. Because we have, in the army and the intelligence, people working for the agenda for our neighbours, that is why we had the second war in '98, we had another war in 2004.”

By contrast, Mr Tshiswaka noted that South Africa played an invaluable role in trying to facilitate democratic dialogue in the DRC.

“South Africa played a very good role because they organised the Sun City dialogue. We gained one very important thing – an agreement to end the war in 2002. The second thing where South Africa played another very big role is with the EU ... So in 2005 we had a new constitution to help different groups to understand new rules and mechanisms to roll it out. And again South Africa played a very big role in 2006 to participate in organising the first elections ...”

Mr T J Yav, the Minister Counsellor of the DRC Embassy then gave a few words on behalf of Ambassador B L M'Phoko who could not be present. He gave thanks to the South African government for supporting the DRC's people and government. He stated that the DRC needs to

find a solution politically, diplomatically, and in dialogue with its neighbour countries, and that for this they need support.

Q&A to the Second Session



In the Q&A to the Second Session, questions were raised by audience members with respect to, amongst others:

- The status of the South African loan to Swaziland.
- MONUSCO's role in the DRC, "[c]urrently their status in DRC is not clear enough ... we don't know what mandate they have in DRC government ... we don't know if they are for peace-building, peace-making or for business on one side ..."
- Whether there should be a neutral intervention force in the north-eastern DRC, and if so whether South Africa should be involved and in what way.
- What to make of South Africa's public posture on Swaziland, particularly the role or lack thereof of financial interests in Swaziland, and whether this could inform why certain leaders in the government or the ANC take different postures. Also, what is the difference between the position of the government and the position of the ANC on Swaziland?

In response Mr Mapaila explained that in Swaziland, under existing conditions, it is not possible to have an inclusive process of participation in elections:

"there's no way any form of elections under the current dictatorship can ever be democratic in Swaziland. There's not an iota of possibility for that. I think it only seeks to justify the existence of this autocracy and in my view it should be rejected ... rather support a democratisation process which should start by the unbanning of political parties ... of course an essential element is the removal of the 1973 decree."

As for the difference between the government and the ANC position on Swaziland, Mr Mapaila said that while the ANC had for many years not developed a clear policy, it produced (though it has not yet adopted) a comprehensive policy on Swaziland for the first time in its recent conference: "So we'll be working on that to ensure that, at least, ANC activists appreciate that framework policy." He added that there should be no equivocation on where the ANC stood:

"we think for a liberation movement of historical record of the African National Congress, it's a miscalculation to think that they can ever be on the side of the dictators in the name of government protocols. It cannot be. We are a liberation force. We received much

solidarity internationally. We have, one way or another, to reciprocate this solidarity to deserving communities and people worldwide. Let alone the fact that many Swazi activists died fighting on our side, died ... so there should be no equivocation around this question, where we stand as the liberation movement in this country.”

On the loan, Mr Mapaila stated that the Swazi King had rejected the democratic reforms attached to the South African loan, and had actually even demanded 40% in interest as a facilitation fee on the loan amount! To his knowledge the loan had not yet been granted though the request was still on the table.

Amb. Nhlapo reiterated what he called a basic principle:

“the basis for the solution of the problem of both the DRC and Swaziland lies within the peoples of those countries. You can create conditions for them to be able to achieve their objectives and you can only support, and should be able to support them on the basis of the demands that they make and their own struggles that they conduct. You can’t take over from them. Let’s be clear about that, you can’t take over from them, but you should support them.”

On the historical situation and current challenges in the Congo, he reflected that:

“When we started from Lusaka to Sun City that was the beginning of trying to build the basis for development of institutions in the Congo, institutions of government, there was nothing. They had just come out of the war ... all the reasons and some of the decisions which were taken in Lusaka in 2000 - we are back again looking at them. So the question is what happened in these ten years. I think it is a very critical question we should ask ourselves because it’s not because there’s no framework to move ahead and to begin to resolve those questions. One big problem. Congo is a big country, totally disconnected. People live in little corners of the country. If they have to leave the country they go through their neighbouring countries ... No connection between the capital and its provinces, totally disconnected. The level of political parties, level of development of the political parties have been distorted for that reason. They are national in name and very localised because they can only operate in their little corners, there’s no connection. Vodacom has brought about some form of connection. But there is no movement ... I think that is fact number one that we must begin to recognise. It’s a huge challenge and we must all work together to find ways and means of ensuring that nation-building in the Congo can also be supported by movement and connection between the people of the Congo ...”

He stressed the importance of not only infrastructure that enables greater connection and movement, but also of building institutions for governance in the DRC:

“The institution that was developed for the transition and after adoption of the constitution, there is a disjunction between the two. The Congo is governed in a transition, because the transition is not completed, that’s part of the basic problem, we need to assist the Congo in building institutions. The so-called international community including

ourselves, we go to the Congo, observe elections, pronounce in different ways whether they have been free and fair and neglect building the institutions. If we are not going to assist that country to build institutions of governance then let's forget, this problem is going to continue to persist."

On the question of the role of MONUSCO and a neutral international force that is being put in place by the International Conference on the Great Lakes Region (ICGLR), he stated that hopefully what will come out of the meeting in Uganda this weekend might help clarify some of the critical questions about the nature of this force, and how it would relate to MONUSCO.

He emphasised the importance of a political process of engagement rather than looking for military solutions in the region: "militarisation of politics in that region and principally in the Congo is not going to help us get out of this unsettlement."

The analysis and recommendations included in this Policy Dialogue Report do not necessarily reflect the view of SALO or any of the donors or conference participants, but rather draw upon the major strands of discussion put forward at the event. Participants neither reviewed nor approved this document. The contents of the report are the sole responsibility of SALO, and can under no circumstances be regarded as reflecting the position of the donors who provided financial assistance for this policy dialogue session.

About the Southern African Liaison Office:



The Southern African Liaison Office (SALO) is a non-governmental organisation which promotes informed process and debate about regional conflicts and crises. SALO does this by organising dialogue events and forums for informed discussion amongst key government and civil society actors from South Africa, the SADC region and internationally, as well as through advocacy, documentary media production, and research and analysis.

SALO would like to thank the generous contributors to this project:

The Olof Palme International Centre* OSISA – Open Society Initiative for Southern Africa*Irish Aid and the Irish Embassy in Pretoria *The European Union

