



# Building International and Regional Consensus

## Policy Dialogue Report No.13

### Zimbabwe: Two Days After the Referendum



18 March 2013

Cape Town Hotel School, Mouille Point, Cape Town

#### SPEAKERS & FACILITATOR:

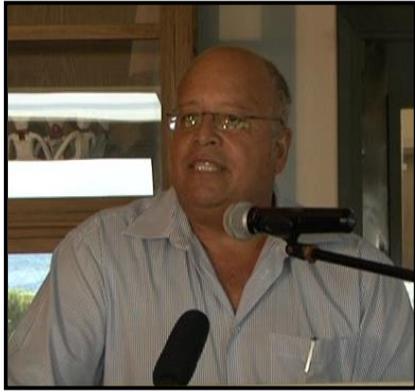
*Facilitator: **Tawanda Sachikonye** (SALO Researcher)*

***Professor Brian Raftopoulos**, Board Member, SALO and Research Director, Solidarity Peace Trust*

***Clever Chikwanda** (SALO Researcher)*



SALO researcher **Tawanda Sachikonye** welcomed everyone to the session of the day, focusing on the constitutional referendum in Zimbabwe, which took place two days prior to 16 March 2013. Tawanda observed that SADC's assessment of the referendum noted: "the polling process was conducted in a peaceful, transparent and smooth manner." He then introduced the first speaker, Professor Brian Raftopoulos, a leading Zimbabwean scholar and activist, the Director of Research and Advocacy at the Solidarity Peace Trust (an NGO based in South Africa that deals with human rights issues in Zimbabwe), and a SALO Board member.



**Professor Raftopoulos** contextualised his talk within a comparison of the current referendum process with the one that took place between 1998 and 2000. He explained that in the late 1990s, a civic movement called the National Constitutional Assembly (NCA) mobilised the Zimbabwean people around the need for constitutional reform. This was an area where there was a great need for debate, and one that was particularly poignant for mobilisation, because the language of the nationalist movement and the liberation struggle around constitutionalism was particularly weak:

“What the nationalist ideology spoke to was issues of unity, issues of legacies of the liberation, issues of a kind of selective nationalism within a context of political transformation ... The need for constitutional reform was actually ... a coded process for bringing Zanu-PF to account ... which had been in power then for nearly 18 years ...”

The civic movement pushed the state into a constitutional review process, and the Government Constitutional Review began in 1999. The outreach programme organised by the government commission was extensive. “The discussions around the constitution were widespread, they were in depth, they were everywhere.” It was also a period of relative liberalisation of politics. The result was the constitutional referendum in 2000 returning a “NO” vote. As Professor Raftopoulos explained, the “NO” vote wasn’t only about the constitution; it was also about the building of a new opposition party. What followed was a major reconfiguration of the state in increasingly authoritarian ways, leading to what became known as the Zimbabwe crisis in the 2000s.

The current referendum process came about as a result of a decade of opposition and civic struggles. This time however, what was the opposition in the 1990s is now a part of government. Although there were immense difficulties, with the process taking four years, a constitution draft was produced in February of this year, which is a compromise document.

“The draft itself contains different languages: the languages of liberation and redistribution, the language of constitutionalism and human rights. It’s an uneasy mix, but it nevertheless contains very useful elements, which I think provide a basis for a way forward.”

Early indications are that only about two million people voted in the referendum as “there was a lot of apathy around the process.” Not much time was given for an outreach programme, and many people felt they didn’t know much about what was in the draft. Nevertheless Professor Raftopoulos believed that the final vote would be a landslide “YES”, with legislation regarding elections then being enacted. But his sense was that other reforms in the GPA would not be put into place. “There may be some tinkering with the other reforms, but my sense is ... that [the constitutional referendum] will become the minimal programme in order to push towards an election, and that could provide problems.” One of the key issues is the role of the security

sector. Under the GPA security sector reform has been one of the weakest parts of the implementation.

Professor Raftopoulos stated that in these circumstances, part of what is used by incumbents of power is the role that the international players adopt with respect to elections.

“It’s clear to me that the sanctions issue *has* played into Mugabe’s hands ... I think effectively what they did was to place SADC and the internal government against the international community in a debate that simply was lost in the region ... I think that that issue will be a factor in this election.”

The sanctions question is one of Zanu-PF’s two issues on its platform. The second is the broader indigenisation/empowerment issue, which deals with different sectors of the economy. It is not a message that can last a long period of time, Professor Raftopoulos argued. Hence this condition, combined with President Mugabe’s health and the fact that Zanu-PF is feeling stronger than in 2008, is why they are trying to move to an early election.

At the same time, Professor Raftopoulos stated that the MDCs have a mammoth task ahead of them. They have been fighting each other, their messaging around sanctions has been contradictory, their economic messaging has not been strong, and their internal organisation on the ground remains fragile. “I think that even if this was free and fair election, this would be a tight election. I don’t see any party having any kind of a landslide under the current balance of power in Zimbabwe.”

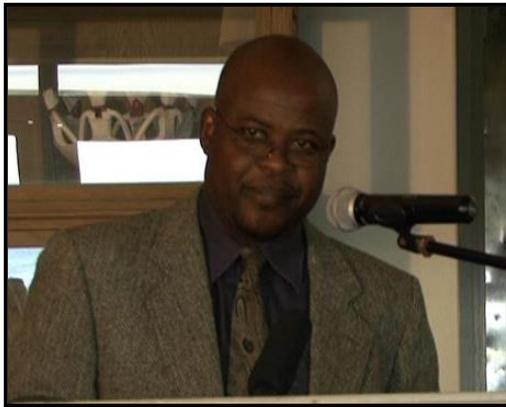
Not only in Zimbabwe but across Africa, Professor Raftopoulos believes, inclusive government, or some form of government of national unity, is one of the only ways in which power can be balanced in the continent’s fragile polities.

“That where we have such weak development strategies, where the development alternatives seem so fragile, where no single party seems to have the development strategy that can move a country forward – inclusive governments, governments of national unity become a method for distributing jobs between the elites, to put it as bluntly as possible. And therefore it is not uncommon that in the last five years or so we’ve seen a series of such governments emerging across the continent.”

Professor Raftopoulos closed his talk by stating that despite the problems, he believed that Zimbabwe had moved forward, and that SADC played a critical role in bringing this about.

“I think that without SADC, Zimbabwe would have been in a much worse place than it is now. What it did, it locked Mugabe in particular and his party in an agreement out of which they could not unilaterally remove themselves without consequences. That was an absolutely important measure in bringing the situation forward. It forced all parties into a negotiation, and it kept the issue in the region, and that’s also very important ... However slow the process has been, in the long term it is much better that SADC has kept ... the issues within the region.”

He observed that Zimbabwe could be seen as a microcosm of the potential for solution of broader problems in the region, not least in South Africa. In other words, Zimbabwe is an important study of what happens to liberation movements when they are faced with the prospect of losing power, and the dangers of an authoritarian response. Secondly it shows the possibilities and the limits of opposition politics; and thirdly, the interaction between regional and international intervention.



The second speaker on the referendum was SALO researcher **Clever Chikwanda**, a PhD candidate at the University of Western Cape. His field of study is post-conflict community healing, and his research often includes carrying out fieldwork in Zimbabwe.

Clever cited some of the better-known incidents of politically motivated violence in relation to the referendum and the forthcoming elections from late 2012 up to early 2013. This included: the death of twelve-year old Christpower Maisiri, son of an MDC official in the Headlands District; the arrest of Dumisani Nkomo, CEO of Habakkuk Trust, a human rights defense organisation in Matabeleland; the raiding of the offices of the Zimbabwe Elections Support Network in Harare and Masvingo; the arrests of Leo Chamawinya and Okay Machisa, both of ZimRights, on allegations of voter registration activities, with Zimrights then barred from taking part in the observation of the referendum process; the charge of Jestina Mukoko for contravening the Private Voluntary Organisation Act, the Broadcasting Services Act, and the Customs Services Act, due to the testing of the Violence Monitoring Initiative in Zimbabwe, a cellphone-based programme called *Ushahidi*, which was used successfully in Kenya; the arrest of Thabani Mpofu, the Principal Director in the Office of the Prime Minister, and three others; the arrest of Beatrice Mtetwa, a prominent human rights defender, at the police station when she went to represent her client; the assault of an MDC aspiring parliamentary candidate Livingstone Vulture in Chipinge; and so on.

Research shows that voters were intimidated in Mbare, Hurungwe, Muzveve, Chakare, and Zimba North. Some of them were allegedly forced to submit their names and addresses after voting. Another development was the reported heavy police presence at polling stations.

In the light of all the violence, the Prime Minister appealed to SADC to convene an urgent summit to ensure that the election is free and fair. As things stood, even if there was a “YES” vote, Clever emphasised, this would not be synonymous with a credible election in Zimbabwe.

On the way forward, Clever advocated that SADC should answer the appeal for an urgent summit. He also believed that it made sense to have elections in July, just before the United Nations World Tourism Organisation General Assembly. All eyes will be on Zimbabwe, and this would deter violence. In addition, Clever argued that international and regional observers need to be in Zimbabwe at minimum three months before and three months after the election. “The tradition

of parachuting is just not going to work.” We have had a tendency of people getting into Zimbabwe the night before the elections.

Lastly, there are a number of issues and lessons arising from the referendum process such as voter apathy, and lack of information and outreach, with many in the rural areas allegedly being coerced by traditional leaders, who wield a lot of power, to just vote “Yes”. He stated that these issues have to be addressed before we can begin to think about the new election.

## Q&A

**Sholto Cross** commented that in contrast to Zimbabwe, South Africa retained the rule of law in its own transition. He asked Professor Raftopoulos about the issue of trust in the constitutional referendum process and in the new constitution in Zimbabwe, given doubts about the judiciary’s independence.

**Howard Smith** commented that there is a time gap between Zimbabwe and South Africa, which suggests that we may be approaching the period in South Africa that corresponds to the emergence of the NCA in Zimbabwe, and that perhaps some of the issues that drove the NCA are present in South Africa. Also, that one of the things that seems to be missing is an interrogation in sufficient depth and identification of what interests may be exploiting, benefitting from, and even possibly driving some of the issues and concerns in the region.

**John Matisonn** commented that American and British money have been used to fund one side of the politics, not just for paying for referenda and electoral events in Zimbabwe. He asked what Professor Raftopoulos’ view was on this, and on the international role in Zimbabwe’s politics.



**Professor Raftopoulos** responded that the issue of legitimacy of the law has always been central to Zanu-PF’s modality of rule, and that ZANU as a nationalist movement has a dual legacy around the law. One is a commitment to constitutionality, though the liberation struggle itself is anti-constitutional by definition. Secondly, on

the question of the legal issues of professionalism within the judiciary, he stated that despite the attacks on the judiciary and the civil services as a whole, there is a lingering professional ethic. This is going to be an important reservoir of reviving the judiciary in different circumstances. Thirdly, despite the fact that the law has so often been used against them, he believed that Zimbabweans still regard the rule of law highly.

The question of agency and who benefits from changes in Zimbabwe is an important one. He stated that there has been a complete reconstruction of Zimbabwe’s political economy – a change of property relations on the land, and the emergence of a new state military economic class with interests in the mines, on the farms, and in almost every aspect of the economy. This

emerging capitalist class has strong roots in the changed property relations, which means that even if political changes come through an election, there is also now this legacy to be dealt with.

Professor Raftopoulos stated that though there is no doubt the South African business class benefited most from the crisis in Zimbabwe, he did not believe that South Africa pushed for quiet diplomacy because of its strong property relations in Zimbabwe.

Lastly, it is not a secret that money played a role in building the opposition in Zimbabwe, or in helping the civic movement. But this did not therefore mean that the opposition is an outside construct; the two are not identical. Zanu-PF as the liberation movement in the 1970s accepted money from the west, but that did not make them a construction of the west. However, that argument has been very effectively used by Zanu-PF to construct the MDC as an outside agency. Often that's been helped by the MDC's clumsiness in dealing with international questions.

“So I think that [international funding is] a problem but on the other hand it's not a new issue. It's not peculiar to opposition parties in Africa; its nationalist parties themselves have such a history. The question I think is how such funds are utilised ...”

*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.*

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