

## Building Regional & International Consensus on Swaziland



**15<sup>th</sup> May 2014, Cape Town**

### Executive summary

The Nation Magazine editor Bheki Makhubu and Human Rights Lawyer Thulani Maseko are still in custody along with PUDEMO President Mario Masuku and Maxwell Dlamini, General Secretary of the Swaziland Youth Congress. In the wake of the arrests of these political activists in Swaziland, SALO hosted a workshop with speakers from the pro-democracy movement of Swaziland.

The aim of this workshop was to create a dialogue about building regional and international consensus on Swaziland, taking particular interest in the role of the Southern African region in consensus building in Swaziland. Participants comprised of individuals who have a deep understanding of the various issues unfolding in Swaziland. The workshop was structured in a way that speakers presented their views and then followed by a question and answer session. Speakers included Ms Mary da Silva (Swaziland Lawyers for Human Rights), Mr Wandile Dlodlu (Co-ordinator, Swaziland United Democratic Front) Morten Nielsen (Head of the Secretariat at Afrika Kontakt), and was chaired by Ms Sanusha Naidu (Research Director, China-Africa Programme – Fahamu). The purpose of this report is to summarize the main points made during the discussion.

## Summary of presentations



**Chair: Sanusha Naidu**, Research Director, China-Africa Programme – Fahamu

Ms Naidu welcomed everyone to the event and thank them for attending. She stated that it is important to think around, structures and strengthening of international, regional and even a national consensus and solidarity. She indicated her hope that this event would help to contextualise and realise the role that the region, international and continental community is showing in solidarity with Swazis. She argued that this solidarity is aimed at building a democratic dispensation in Swaziland.

**Rebone Tau**, Human Rights Activist



Ms Tau thanked the chairperson and welcomed the people from Swaziland and Denmark. She acknowledged that people from Swaziland continue to struggle and to be oppressed by the Swazi regime. She reminded everyone that some people are in prison, exile and others have died fighting for democracy in Swaziland. She stressed the importance to never forget the struggle of fellow brothers and sisters in Swaziland.

*“It’s important that we continue to raise awareness in communities of the challenges that the people of Swaziland are going through on a day-to-day basis, and that we continue to be in solidarity with and support of them.”*

**Mary Pais ada Silva**, Swaziland Lawyers for Human Rights

Ms da Silva gave a brief timeline on the events that have led to the judicial and rule of law crisis faced by Swazis. She mentioned that for almost two years Swaziland did not have a Court of Appeal, due to judges resigning *en masse* in 2002. She argued that a similar crisis occurred in 2011 when Chief Justice Michael Ramodibedi issued a series of directives including one that barred any litigation that directly or indirectly affect the King from going through the courts.



*“The result was that the lawyers in Swaziland decided to boycott the courts and say that ‘we cannot allow such a situation to happen’..... and our complaints still haven’t been addressed...”*

She stated that in mid-January 2014 the Chief Vehicle Inspector, Bhantshana Gwebu, was arrested for contempt of court by the Chief Justice. Arrested for doing his job, Mr Gwebu was denied legal representation. Thulani Maseko, a Human Rights lawyer and Bheki Makhubu, the editor of the independent *The Nation* magazine from Swaziland, were arrested for a contempt of court. Mr Maseko was arrested for writing an article questioning the manner in which the Bhantshana Gwebu's issue was dealt with and for saying that the institutions that have been placed to safeguard and protect Swaziland from corruption are the ones that are now being corrupted.

Ms da Silva stated that the court has shown contradictions in this case by ruling the case as *sui generis*, which meant it was 'peculiar' and then using the statutes, the Criminal Procedure and Evidence (CP and E) Act when it suites them. And concluded by stating that Swaziland is an oppressive place where the government uses repressive laws and suppression all the time.

**Mr Wandile Dlodlu**, Co-ordinator, Swaziland United Democratic Front (SUDF)



Mr Dlodlu expressed his pleasure and gratitude to SALO for being invited to this strategic forum for engaging issues in Swaziland. He asserted that the judiciary is being abused and misused by the state, stating that the Chief Justice Ramodibedi comes from Lesotho, where he faces criminal charges for fraud and impeachment. Mr Dlodlu pointed out that the Swaziland Constitution clear stipulates that the Chief Justice of Swaziland shall be a Swazi and therefore Chief Justice Ramodibedi is sitting illegally.

He stated that Swaziland has a political system where power does not lie in Parliament nor with the Executive, but it lies with the Institution of the Monarch. This Monarch is the essence of all the challenges that prevail in Swaziland; legal, economic and social.

Mr Dlodlu stressed that the important question currently is, '*What needs to be done?*'. He urged ordinary citizens of South Africa, politicians, political parties, civil society groupings and anyone who loves justice and believes in democracy to help the one-point-two million oppressed people of Swaziland on the following:

1. The Southern African Customs Union (SACU) is a cushioning that helps a great deal to fund a regime that perpetuates oppression.
2. Our humble plea to the European Union is that they use the carrot and stick approach to encourage Swaziland to show a commitment on human rights and a political will to democratise.
3. Our humble advice is that we group ourselves under the Swaziland Democracy Campaign (SDC) banner, which links directly with the pro- democracy forces inside Swaziland.
4. A food for thought is that South Africans do pickets, petitions and lobby the South African Parliament in support and in solidarity with the people of Swaziland.
5. We are pleading that more pressure be applied on Parliament and on government structures to take firmer policy stance on Swaziland.



Mr Dlodlu concluded by asserting that it is our moral and political duty, individually and collectively, to do more to bring democracy to Swaziland. Swazis need support and contribution in order for democracy to prevail in Swaziland.

**Morten Nielsen**, Head of the Secretariat at Afrika Kontakt



Mr Nielsen stated that an American Ambassador is speaking out on the human rights violations in Swaziland, yet neighbouring countries are the quietest in this situation. He asserted that the problem in Swaziland is the constitution, which is non-democratic, as it gives all the power to the King. Mr Nielsen highlighted important areas where it is clear that the King prevails over the constitutions, for an example where the constitution reads: *'and if any of this conflicts with the interests of the royal family or the King then it is not valid.'*

He emphasized that a clear voice that condemns what is happening in Swaziland and supports the democratic opposition is needed. A lot of governments say that the democratic opposition in Swaziland does not present an alternative to the current government. Mr Nielsen argued that this is due to the fact that there is no political space in Swaziland. He maintained that only the international community can enforce more political space in Swaziland and for many Swazis the 'international community' is South Africa. Therefore, the South African government and all South Africans have a responsibility not only because of the assistance of the Swazis during the struggle against apartheid, but mainly because of an obligation to support and show solidarity.

He advised the South African youth not only to celebrate their own freedom on June 16, but to also remember the struggling youth of Swaziland. Mr Nielsen stated that Maxwell Dlamini, one of the youth leaders in Swaziland will face trial together with President Mario Masuku of the banned political party PUDEMO. Currently, mainly the very right-wing American foundations are talking to the Swazi King and their ideas will not benefit the Swazi people nor South Africa. He concluded by mentioning that Swaziland requires help to develop its policies and strategies, rather than words that it has mostly received from its South African networks. Mr Nielsen argued that South Africa needs to be clearer and direct about its views on Swaziland.

**Sanusha Naidu**



Ms Naidu informed everyone of a report put out as a policy brief to the South African Government by the South African Institute of International Affairs (SAIIA), titled; *'The Reed that Lies Low in a Flooded River: Swaziland's Resistance to South Africa's Reform Diplomacy.'*, which is about how South Africa can leverage its influence around political reform in Swaziland. She directed everyone's attention to the practical recommendations on how SACU can be used as a vehicle to put pressure on the Swazi government to undertake political reform and also on how South Africa can use its own development partnership agency as a way to educate the activists in Swaziland.

## Contributions from the Floor –



### **First Contributor: Klaus Kristensen**

Mr Kristensen asked Mr Dlodlu and Mr Nielsen on their opinion regarding why Americans are showing more visibility in these court cases than the South Africans or anybody else.

### **Second Contributor: Alex Muhiga**

Mr Muhiga asked about the position of the army, the military in the political situation of Swaziland.

### **Third Contributor: Stanley Mutetwa**

Mr Mutetwa stated that he feels that, as more Swazis challenge the government. The government's response through arrests and victimisation will influence an urgent intervention from SADC countries.

### **Fourth Contributor: Neil Shaw**

Mr Shaw stated that his colleague had compared Swaziland to France in 1788, just before the French Revolution and he asked if there is a possibility that there could be an uprising in Swaziland.

### **Fifth Contributor: Howard Smith**

Mr Smith suggested that maybe we should start adopting language like 'Swaziland *selected its impotent* parliament last August by a mechanism which is *not* democracy'.

## **Responses from the Panel**

### **Morten Nielsen**

Mr Nielsen stated that the American Ambassador could be outspoken because he is a good person or because the Americans have the AGOA agreement with Swaziland. Regarding a possibility of an uprising in Swaziland, he stated that most Swazis are dependent on the regime: The King owns the land, which means if you are a student and protester, you reduce the chance of getting a job after graduation. He argued that if anyone protests too much, they may lose their house, their land, their job and their kids may not go to school. Mr Nielsen highlighted that the fear of the consequences is very real in Swaziland. He concluded by confirming that there are now more people speaking up against the regime today than they did ten years ago and some groups have started to organise themselves.

### **Mary da Silva**

Ms Da Silva stated that the US ambassador came to the Lawyers for Human Rights, and asked what role they can play apart from issuing statements about the human rights abuses. The EU ambassador to Swaziland also

attended court proceedings. She pointed out that important to get missions and embassies to speak up and for the international community to bring pressure. Ms Da Silva argued that this could bring change in terms of the repression and oppression faced by the Swazis. She asserted that, it is important to address political issues that have led to the economic crisis in 2011 and the current health crisis.

### **Wandile Dlodlu**

Mr Dlodlu mentioned that King Mswati is the head of the army, the Commander-in-Chief of the Police Force and the Commissioner-in-Chief of the Correctional Services and does his best to contain the pressure internally. He urged the international community to pressure the Swazi King from outside.

### **Further Contributions from the Floor**

#### **First Contributor: Siphakamiso Ngo**

Siphakamiso asserted that there is a COSAS debate to have a march where they demand that the South African Ambassador must leave Swaziland due to the lack of public awareness for the Swazi struggle. He stated that he was surprised to see the Swazi King attending the wedding in England wondering why the Brits were hosting him, whereas their policies of Britain speak of liberty, democracy and freedom of speech.

*“2011 and 2013 was an era when dictators were being overthrown, but unfortunately Mugabe and Mswati survived.”*

He pointed out that young people participated in those struggles, and urged the student wings and the student organisations to play their role. Siphakamiso appeal to the forum to assist COSAS in its mobilisation of students.

#### **Second Contributor: Khanyisani Zungu**

Khanyisani asked about the role of the International Law Societies in Swaziland and what their influence is. He asked whether there is any corporate and political will from South Africa to help with the Swazi struggle for democracy.

#### **Third contributor: Tawanda Sachikonye**

Tawanda asserted that one of the cornerstones to the Swazi issue is a serious engaged dialogue. He asked the panellists' understanding of SADC's position on Swaziland. He concluded by stating that the ANC as well as the AU believe in dialogue and asked what happened to the notion of dialogue between the Monarchy and all the progressive movements in Swaziland. Tawanda asked why the dialogue has broken down, and how can they be resuscitated and taken to a higher level such as SADC or maybe the AU?

#### **Fourth contributor: Ntombini Marrengane**

Ntombini asked whether there is a corresponding tide of interest, engagement in the rural areas where chiefs and *Tinkundlas* (an administrative subdivision smaller than a district but larger than an umphakatsi (or `chiefdom`)) hold the most power?

#### **Fifth Contributor: Themba Mbonagata**

Themba asked whether King Mswati allows leaders from other countries like South Africa to enter Swaziland and try to form an alliance or a movement that would overthrow his position as a controller, maybe to build a more democratic country.

### **Sixth Contributor: Muhammed Khayed Sayed**

Muhammed asked what the Swazis would like the South African Government and the ANC to do to assist.

### **Responses from the Panel**

#### **Wandile Dlodlu**

Mr Dlodlu stated that the people of South Africa could assist Swaziland by picketing, petitioning and lobbying directed at the South African Parliament. In conclusion he suggested that everyone must make it costly and embarrassing for King Mswati to arrest anyone.

#### **Morten Nielsen**

Mr Nielsen focused his response on what can be done; stating that both the ANC and its Youth League have links within the Royal Family and therefore have a chance to influence them. Swazis need to develop their own strategies and how they are fighting their own regime. He cautioned the Swazis against using armed struggle like South Africa did. Mr Nielsen argued that the phrase 'armed struggle' makes all western diplomats blind and deaf, due to recent historical events, which include the bombing of buildings. Therefore, there needs to be a political strategy with a peaceful solution.

#### **Mary da Silva**

Ms da Silva stated that Swaziland has one national radio and TV station which is state-owned and state-controlled. The press environment in Swaziland is seriously constrained and controlled, and unless there is an alternative media environment, nothing much can be done. Additionally, Swaziland is mainly rural and in the rural areas they have to come up with programmes that are mainly about development, HIV and AIDS in order to be allowed to hold meetings. Ms Da Silva pointed out that the meetings are infiltrated and can be disrupted or stopped as soon as anyone says something that is not palatable to the local authorities and that makes it difficult to access rural areas.

She asserted that Lawyers for Human Rights have been seen to be the most vocal of the legal bodies. The Law Society of Swaziland has formed partnerships and have had tremendous support from various legal bodies in the SADC region. In conclusion, Ms Da Silva stated that through engagements with SALO, the Law Society in Swaziland are still going to have engagements with the South African Lawyers for Human Rights, the Legal Resource Centre and hopefully the jurists and the Judges from South Africa. She encouraged South African jurists or advocates from South Africa to stop going to Swaziland in order to ensure that the pressure keeps piling on and to ensure that change comes.

#### **Sanusha Naidu**

In closing Naidu raised the following points:

1. The role of SADC; how do we see SADC, and what is SADC's role in mobilising a regional consensus on Swaziland.
2. The Southern African Tribunal Court has been divested of its powers, yet it is an important area that could actually uphold a regional framework for human rights, which could then put pressure on Swaziland to actually reform.
3. The political duty that South Africa has to Swaziland and how do we conceptualise and internalise what kind of intervention South Africa should be taking

4. The importance of the role of SACU and Africa Growth Opportunity Act as the life line to the Swazi economy.
5. International advocacy is very important including Royal houses, South African and international media.

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