

# **POLICY DIALOGUE REPORT**

## **BUILDING INTERNATIONAL CONSENSUS: ZIMBABWE AND THE DRC Wednesday 1st February 2012, Burgers Park Hotel, Pretoria**

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### **SESSION ONE – PANEL ONE**

#### **1.1 INTRODUCTION**

The first BIC of 2012 was held on the 1<sup>st</sup> February at Burgers Park Hotel, Pretoria. The event was chaired by Zimbabwean feminist and activist and long standing supporter of SALO, Bella Matambanadzo. The key note address in Session Two was delivered by Ambassador Lindiwe Zulu, International Relations Adviser to the President (SA) and in Session Three by Ambassador Welile Nhlapo, Special Envoy to the Great Lakes Region and National Security Advisor to the President (SA) speakers included:

Irene Petras, Zimbabwe Lawyers for Human Rights  
Brian Rofotpoloous, Solidarity Peace Trust  
Dr Claude Kabemba, Southern Africa Resource Watch  
H.E Roeland Van De Geer, EU Ambassador to SA

The dialogue centred around Zimbabwe and the DRC. In relation to the former, speakers raised issues around the Constitutional making process, outstanding issues in the Global Political Agreement and an analysis of the central political challenges in the current period. Ambassador Zulu spoke on the challenges of facilitation and negotiation and gave an update of the mediation in Zimbabwe from the point of view of the SADC endorsed, South African facilitation team. On the issue of the DRC, the speakers focused on the impact of the recent elections in 2011 and what they held for the future of electoral democracy. An update on the European Union's position on the DRC elections was also shared as well as a briefing and analysis from Ambassador Nhlapo on the a wide range of issues pertaining to elections and the transitional process within the DRC.

## 1.2 FIRST SPEAKER - IRENE PETRAS

Irene Petras is the Executive Director of Zimbabwe Lawyers for Human Rights (ZLHR) and the Vice-Chair of the Board of the Zimbabwe Election Support Network (ZESN). ZLHR was set up in 1996 and has three offices across Zimbabwe. It represents during any operational year up to 1,500 human rights defenders facing emergency situations.

*“The late Chief Justice of the South African Constitutional Court, Ismail Mohamed, had said ‘the Constitution is the mirror of the national soul’ and in Zimbabwe I think the national soul which we see now as we look into the mirror is one of three political parties who are putting what they want into the Constitution and not worrying about the broader national interests”.*



### 1.2.1 Monitoring the Constitution making process

Zimbabwe Lawyers for Human Rights, the Zimbabwe Election Support Network and the Zimbabwe Peace Project undertook the task of **independently monitoring the Constitution making process**. They have had monitors spread out throughout the country since the outreach process began.

This team produced a **Shadow Report on that outreach process**. No *official* report on the outreach process has been published which is one of the challenges of the process, but the Shadow report concludes that:

- The environment during the outreach was **not conducive to free participation** in most of the Provinces and was worst in the Provinces affected by political violence after the March 2008 elections.
- There was a lot of political interference in the expression of the people’s views; high levels of repression; intimidation before meetings were held and a lot of coaching on particular positions from political parties.
- Rather than being a national exercise to talk about issues which were very key and near and dear to the hearts of people, it **became almost a campaign process** to see which political party would be able to have its view heard in most of the meetings, which issues would be prioritised.
- On the upside the report found **quite high levels of participation by women**, although the levels of participation by youth and other special interest groups were quite low. However on the participation by women it will have to be seen whether it actually translates into substantive confirmation of the issues which they raised and some of the issues which they would want to be protected in the Constitution.

Currently the Constitution is in the **drafting phase** and it has become quite a contested and politicised space. There has been a significant sidelining of civil society and inadequate representation of stakeholders. **The process has been effectively removed from the public domain.**

The monitors had asked firstly to see the report of the outreach process and the kind of issues that had been addressed. They also wanted access, not to the drafters, but to see what was coming out in the draft Constitution in order to compare it against the issues which had emerged in the outreach process, to see whether such issues had been mirrored in COPAC’s draft. Unfortunately that is still an area of contestation and the monitors have not been given access.

### 1.2.2 Recommendations to strengthen the Constitution making process:

- **The lack of substantive information about processes.** When shortcomings are pointed out to COPAC they are never addressed substantively and there needs to be more substantive engagement between those stakeholders who are pointing out issues and the official COPAC process so that we can try and remedy some of these situations.
- **The lack of inclusivity** will alienate people more than it already has and also allow others to take advantage of that and try and push themselves into those spaces which others are tired of fighting to occupy.
- **The lack of civic education around the Constitution-making process** will lead to more exclusion of alternative views and dampen informed decision making. We need to make sure that people know what is in the Constitution before we go to a Second All Stakeholders Conference and a referendum, to allow people to make proper decisions.
- **The failure to address the 'highly charged operating environment'** which continues to persist in Zimbabwe
- Even if Zimbabwe adopts an acceptable Constitution that protects rights and sets up independent institutions will that automatically lead to **respect for the Constitution and the rule of law**? Will it lead to proper implementation of its principles and its provisions? Because even the Constitution as it is now, flawed as it is, has some provisions which can protect and which can promote rights, but it is the **culture of compliance, the political mindset and the political will** that might be more of a challenge to implement.

### 1.2.3 Other outstanding issues in the Global Political Agreement

**The Constitution is not the only fundamental requirement to resolving the Zimbabwe question.** If a non-disputed election is to take place critical **institutional reforms** and issues in the Global Political Agreement which remain sidelined need to be addressed, such as:

- **Police reform** and countering the culture of impunity
- **Reform of prosecuting authorities** who do not prosecute perpetrators of politically motivated violence
- **Judiciary reform** so that laws are upheld
- **The Human Rights Commission** has been set up for more than three years but does not have a statute which will allow it to begin its operations.
- **Free political activity, freedoms of expression and association** - these issues still remain suppressed.
- The reforms that were needed for a **strong media**, able to provide alternative views, have not been substantively reformed.
- And finally the **insecurity of human rights defenders and the clamp down on NGOs** are critical issues which have not been addressed.

There have been **some attempts to improve certain parts of society**, the economy, social services and the delivery systems, but when it comes to these fundamental issues, which will decide whether or not a new election will be able to take place in a stable operating environment; in which people can freely go and cast their vote. These are issues that need to be addressed.

Finally, 2012 should not be an election year, it should be a year for substantive reforms. Most crucially there needs to be **renewed sense of urgency and energy** to address these issues by all stakeholders. So what we need is to try and push for those reforms with a new sense of urgency, to look at those substantive issues and see how we can try and put those in place.

### 1.3 SECOND SPEAKER – PROF. BRAIN RAFTOPOULOS



Professor Brian Raftopoulos is Director of Research and Advocacy at the Solidarity Peace Trust, an NGO dealing with human rights issues in Zimbabwe. He is also the Mellon Senior Research Mentor at the Centre for Humanities, University of the Western Cape. Before moving to Cape Town in 2006 he was Associate Professor of Development Studies at the University of Zimbabwe. He has published widely on Zimbabwean issues provided invaluable intellectual and activist leadership on the Zimbabwe question over many years.

*“People often ask me – “why hasn’t Zimbabwe had its ‘Egypt moment’?” My answer is simple, we had our moment in the 1990s... So the conditions are completely different and people should stop trying to use North Africa now as an analogy for Zimbabwe, it’s wrong. Historically, politically, it’s not a good hermeneutic device to use.”*

#### 1.3.1 Zimbabwe’s central political challenges in the current period

##### i. The internal politics of Zanu-PF

- **The role of the military in Zanu-PF** from the mid-1970s and Mugabe’s rise to power is a linkage that remains the key to the succession question in Zanu-PF.
- There is currently a **hurried attempt** to move towards a new election from the hardliners in Zanu-PF because of the **succession issue** in the party. Mugabe’s health is deteriorating and there is a clear perception that the election needs to happen, before anything happens to Mugabe. This rush to an election could mean a huge pressure from Zanu hardliners, the military-security complex in particular. The pressure on the Constitutional process is linked to that. However, there is also a possibility that they will reject that Constitution and move to an election quicker. One shouldn’t rule that out either. So succession is a central problem now for Zimbabwe. It has been a problem for the last ten years and one with which the Mbeki mediation had to deal with.
- The fact is that **Zanu-PF does have a support base**. It’s a fallacy to think that Zanu has no support in Zimbabwe. It has a social base because of many factors – its history as a liberation movement; the land question however problematic it has been, has delivered to certain constituencies. So Zanu will be a factor in the next election, whether it is free and fair or not, they will be a factor and it will be a real battle.

##### ii. The problem of the MDCs and the civic movement as a whole.

- **The MDCs are not as organisationally strong as they used to be**. There’s been a weakening of their structures, they have not put enough into the structural frameworks of their organisational framework and their responses with the GPA not been as sharp as they could have been.
- More fundamentally is that the **social base of the MDC has weakened**. The urban working class and middle class bases have been hugely deconstructed by the economic crisis. So that the social base, particularly in the labour movement is simply not there anymore. The 1996 public sector strike triggered the emergence of opposition politics in Zimbabwe and was the first major indication that the labour movement was moving towards a confrontation with the State. The current public sector strike has had no such effect.

- iii. **The Security sector** - On this issue Prof. Raftopoulos does not foresee any movement. He stated that, interestingly security sector reform was not on the initial agenda of the mediation. Perhaps because all parties felt it would slow the process down and should therefore be dealt with after it was signed through the National Security Council. Of course this has not happened.
- iv. **On the economy**, Raftopoulos says *“a weakened economy doesn’t serve the democratic forces, it weakens them”*. Since the fallout with the International Financial Institutions in the late 1990s and as a result of sanctions in the 2000s there has been no major development assistance only mainly humanitarian assistance coming into the country. There has also been no major growth in the formal, urban sector, although there is slight movement in the rural areas. This has certainly affected the capacity of the GPA to move forward as it weakened the opposition and other democratic forces.
- v. On the **question of SADC**, from the beginning SADC played the role of providing solidarity for the Mugabe government. That began to change after the GPA and after the Livingstone Summit in March 2011 where a more critical position was asserted. However, Raftopoulos feels since then there has been slight regression in relation to SADC’s position and a slowing down of the mediation process, he says *“we’re beginning to see cracks within SADC around the Zimbabwe question again”*. It is clear that Zanu have been doing their politicking within SADC in order to initiate early elections. There is a real danger that if SADC does not stand firm that we could well have an election this year under conditions totally not conducive to a new dispensation
- vi. **The role of sanctions** is a very complicated question with no easy answers.
  - The sanctions initially were introduced for a number of reasons, namely the human rights abuses, election abuses and attacks on property rights in relation to the land question.
  - One of the things SADC and the GPA called for, which all the parties signed on to was the removal of sanctions. That has not happened. For SADC, for the mediators, for former president Mbeki and President Zuma, this is an indication of continued antagonism between the West and SADC.
  - Sanctions have certainly weakened not just companies or individuals in ZANU-PF but have had a broader effect on development assistance to Zimbabwe. Therefore **we need a much more nuanced position on this, as we move forward**. As it stands, and as is particularly the case with the Americans who seem particularly recalcitrant on this issue. *“The idea of just saying, ‘No removal of sanctions until we get a free and fair election’, is not productive.”*
  - Without a doubt, as it stands **the sanctions issue will play into Mugabe’s hands**. It may weaken their possibilities and constrain their resources, but it won’t get the agenda needed in the country so further discussion on the possibilities around that are needed.

### **The way forward**

In agreement with Ms. Petras, Prof. Raftopoulos believes elections in 2012 would be a complete disaster. He states that *“you need to remember for ZANU-PF elections are a formality they need to go through. They don’t see their legitimacy and sovereignty as coming from elections. For ZANU their sovereignty comes from the liberation struggle, that’s it. Elections are an international requirement but it’s never been at the heart of their conception of their own legitimacy, never. So that for them, they want to move into this election, get it over with and then if necessary, think, see, if suddenly they have the region on their side, they’ve got AU back on their side, go it alone as much as they can. That is a real possibility and it’s a very dangerous and one that we need to consider very seriously”*.

## SESSION ONE – PANEL TWO

### 2.1 KEYNOTE SPEAKER – AMBASSADOR LINDIWE ZULU

Ambassador Zulu is the current International Relations Adviser in the South African Presidency. She is also a member of the National Executive Committee of the ANC and serves in various ANC NEC sub-committees including the International Relations Sub-Committee. She was the former Ambassador to Brazil, and an Advisor to former Minister of Foreign Affairs Nkosozana Dlamini-Zuma. Over the last 15 or so years she has participated in various mediation and conflict resolution processes in Burundi, Côte D'Ivoire and the DRC. She is also instrumental in the current SADC facilitation team in Zimbabwe.



#### 2.1.1 The challenges of facilitation and negotiation

The first half of Ambassador Zulu's presentation focused on her understanding of and experiences in facilitation and negotiation.

- i. **The first challenge encompasses balancing a range of factors** which she defined as:
  - **Political parties** with competing interests
  - **Individual personalities** within political parties who become the centre of discussions
  - **Ideology** which is often pushed to the side even though it is usually at the centre of it all
- ii. **The second challenge is understanding competing interests:**
  - **Party interests** sometimes go in the right direction in assisting the facilitation or the negotiations, but sometimes it is the opposite. Embedded in this type of interest are **inter-party challenges** which are important to bear in mind.
  - **Individual interests** that do not serve the common good, or the broader process going forward always need to be under consideration.
  - **External interests** play a huge role. These are of particular concern to a facilitation team. It is often the case that once an issue is agreed upon and the parties leave the room, they talk to external people who certain interests and then return to negotiations as if the last agreement or point discussed did not take place. This was experienced particularly when dealing with the situation in the DRC.
- iii. **Thirdly, facilitation cannot be narrowed to the interests of the people of a given country**, it has to be much broader than that, so additional factors are:
  - **the geo-politics of the time**
  - **the international balance of power**

If a facilitation team does not bring this into its scheme the process will move very slowly and be difficult. So it's important to engage everybody. An example is the debate on **sanctions in Zimbabwe** which the Ambassador Zulu has had with the UK, the US and the EU. She states that in the US the official line was, *'Nothing is happening in Zimbabwe that warrants us to support the lifting of sanctions'*. In the UK the language was a little bit different, *'Let's talk about it, let's discuss, we feel that some of the things that you particularly as a facilitation team are doing maybe warrants a discussion'* but later they suggested that they didn't think Zimbabwe had reached that point yet. At the EU there were the same kinds of discussions, despite the AU advising that sanctions must be lifted.

- iv. **The fourth point is the importance of external assistance.** A facilitation team needs to have people on its side to assist them, not to assist the different political parties of Zimbabwe, but assist the team in fulfilling their mandate to keep the process moving and reaching some agreement.
- v. **The fifth issue was identified as staying grounded and focused on the objectives.** Ambassador Zulu emphasised the need for consistent focus during the mediation process in spite of distractions, such as disruptive statements, occurring. A facilitation team has to remain focused on the tasks and goals they have been mandated to carry out and ultimately achieve. The basic principles of human rights and ensuring that the institutions needed to safeguard people are developed, should be the guiding light or anchor of a good facilitator.
- vi. **The sixth point is the voice of ordinary people,** and the inclusion of democratic formations, such as Parliament, in informing the mediation process. In the context of Zimbabwe the facilitation team expanded their discussions with other formations outside of the Global Political Agreement because they believed that their work could only be enriched by listening to people. But this had to occur whilst safeguarding against being pulled into different directions and sticking to the mandate.
- vii. **The final point is on agreements - sticking to agreements and implementing them.** Ambassador Zulu states *“that’s one of the biggest challenges for any facilitator, because one minute one thing is implemented, the next one is not implemented and again the different interests which I spoke about earlier [see above] come to play as we are trying to make sure that these agreements are implemented”*. She feels that this is a challenge for political parties on the Continent as a whole.

### 2.1.2 Update on the SADC mediation process in Zimbabwe

The second half of the presentation included the following observations from the facilitation team:

- i. In terms of the **implementation of the Global Political Agreement** it is felt that the negotiators have done the best that they can to address outstanding issues.
- ii. As far as the **development of the roadmap to elections** is concerned the negotiators have now handed over all the issues that need to be escalated to the principals. So team and the facilitator is working on ensuring that the meeting of the three principals thoroughly deals with outstanding issues.
- iii. The third crucial issue is that of the **Constitution-making process and COPAC** have got a timetable already and are working on this.
- iv. The fourth issue was on **JOMIC**, the Ambassador stated that they were having a lot of positive engagements and would continue working with them, focusing on the creation of a conducive environment, not just for elections but long-term .
- v. On **institutional reform** the Ambassador reports that the facilitation team have met from time to time with the Electoral, Human Rights and Media Commissions and will continue to do so to keep them engaged on the task of building strong, sustainable structures.
- vi. **A slow-down of the mediation process.** The Ambassador claims there has been a slowing down of the process, *“in as far as our activities are concerned but the slowdown has nothing to do with, absolutely nothing to do with, lack of interest in dealing with Zimbabwe, or, as others like to say ‘are you throwing the ball away from Zimbabwe?’, no its got nothing to do with that, absolutely.”* She attributes the slow-down primarily on the team being preoccupied with preparations for the AU Summit and the ANC

Centenary celebrations. However, they will return to Zimbabwe after the opening of the South African Parliament in mid-February.

### **Conclusion - the year ahead in Zimbabwe**

The Ambassador reported that the facilitation team has hope that this year will probably be a better year for Zimbabwe than the previous one. On elections, she said that decision depends entirely on the political parties and the people of Zimbabwe.

However, she stated that *“I must not be misquoted to be saying that I’m saying there’s going to be elections in Zimbabwe this year. It is not our decision as a facilitation team as to when elections can take place in Zimbabwe...but one thing we are certain about from where we stand as a facilitation team is that the environment is conducive to holding elections one, the institutions that are supposed to help us to make sure the elections are free and fair are also in place.”*

However she concluded that ultimately at the end of it all it is the political parties and the implementation of all the agreements they have agreed upon that will decide when elections are going to take place in Zimbabwe.

## **SESSION TWO**

### **3.1 FIRST SPEAKER - DR CLAUDE KABEMBA**



Dr Kabemba was previously with the Centre for Policy Studies and the Electoral Institute of Southern Africa he is now Director of the Southern Africa Resource Watch, a project of the Open Society Initiative of Southern Africa. The project works in 10 countries with Governments, mining, oil and timber companies and communities. It looks at governance of natural resources and takes a human rights approach to the issue, focusing on how communities and citizens are benefiting from their resources.

*“You can also not divorce elections in the Congo with the extraction of resources. Up to date the focus on the DRC remains how to access resources”*

#### **3.1.1 The political context in the DRC - natural resources and the transitional process**

As quoted above Kabemba highlighted how central **the DRC’s natural resources** are to any political debate. He explained the emergence of new powers, coming from Asia and the Continent trying to gain control and access of Congolese resources.

Since President Kabila came to power he has given sufficient resources to the United States, through Free Point, one of the biggest reserves of copper and cobalt in the Congo, but he has balanced that through giving China opportunity to access these resources. For Kabila, political and regime stability is protected for as long as he is in good standing with the United States. However he can only rebuild the Congo with the capacity of emerging powers such as China, who are beginning to have a presence on the Continent. However, regime change can also happen if the Congolese people, who are not socially benefitting from their resources, act.

#### **The transitional process post-Sun City**

Since the negotiations in Sun City and the 2006 elections, the Congolese have not adequately started to rebuild the State. Kabemba is of that view that post-Sun City, political actors in Congo have not given themselves an opportunity to discuss what is really going to change the Congo beyond just organising elections.



### 3.1.2 The relevance of the 2011 elections

Kabemba opened with the question – ‘*what have the 2011 elections delivered to the Congolese and the future of Congo?*’ Here he claims there are two sides to the story, a positive and a negative. On the positive side:

i. **This is the first time in the DRC’s history that a government has completed a full term in office.**

The government of Patrice Lumumba only remained in power for three months. The government of Tshombe could not even take office and the Mobutu government which stayed in power for 32 years never organised really democratic elections. So this can be considered as progress in that historical context.

ii. **It is also the first time that the Congolese organise their own elections.**

In 2006 the elections were fully organised by the international community. In this election the Congolese took a decision to organise it themselves despite concerns over their capacity. As other speakers mentioned, this decision had to be respected and taken as a sign of commitment in developing a culture of democracy. However, Kabemba believes it would have been too much to expect the Electoral Commission to function “*as an isolated island of perfection, when everything around it is not functioning*”.

iii. **On the financing of elections.**

The government raised funds by auctioning off a Congolese mining company and its mining rights. In that process the Congo lost close to \$5 billion of potential future income. It is felt that President Joseph Kabila might have put sovereignty above good governance, and above protection of resources but we are seeing a Congo emerging from the control from external powers, where the Congo is starting to have its own capacity and taking charge of its own future.

viii. **However, on the downside**, despite these positive steps the election was contested by almost all political parties which poses a much bigger question - ‘***what is the future of the electoral democracy in the Congo?***’

He argues that if the Congo had not organised the elections the Government of President Kabila would have **fallen into the context of illegitimacy**. This could have opened up a Pandora’s box and seen a return to Sun City to start renegotiating a new deal. **So the elections in some sense preserved legitimacy**, whether that legitimacy is seen as such in the eyes of all Congolese is another question but this legitimacy has kept the country together.

ix. **On the opposition** Kabemba stated that:

- President Joseph Kabila’s coalition was more powerful and had the opposition being united they would have had a much greater chance of winning those elections but they were divided which is a characteristic of opposition across the Continent.
- The question is often raised that, **why have the opposition who have disputed elections not been able to mobilise themselves to contest them on the street and fight?** He feels that this was not an option for the DRC which has lost 5 million people to war and violence over the last ten years alone.

### 3.1.3 What does the future hold for the Congo?

Kabemba stated that elections are just one component of rebuilding the state and not the endgame. The endgame is to ensure that some of the crises that keep Congo as a dysfunctional state are resolved. He spoke of two types of crises, internal and external.

### **The internal crises are seen crises of electoral and governance democracy:**

- The fact that the elections were not accepted by all political parties gives a very serious challenge to President Kabila's government but **this challenge could also be an opportunity** for President Kabila's party to start to diffuse the tension that exists in society.
- The quality of elections has deteriorated so the challenge is to remedy the crisis of democracy and for the Congolese to pick up the pieces and **ensure that future elections are properly organised, transparent and inclusive.**
- It is also crucial that during this process **the rules of the game are not continuously changed.** The recent changing of the Constitution to allow for elections to follow a one round, rather than a two round process was a strategy for President Kabila to ensure that the opposition could not create a bigger coalition in the second round. **The changing of the Constitution within five years, shows the weaknesses of the system** itself.
- But what is also very surprising is that to change the Constitution, Members of Parliament have to be corrupted. Members of ruling party and the opposition would have received money to allow that rule to be changed in the Constitution. So there is the issue of **strengthening morality in Congolese society?**
- So **electoral democracy has to be combined with substantive democracy** to address issues such as what kind of policies should be followed to address the social and economic conditions of Congolese people. That discussion has not started to happen in the Congo and unless it does these conditions will not be alleviated.
- Lastly, the legitimacy of leaders cannot be solely based on elections. **The legitimacy of leaders must be linked to their ability and capacity to provide services to the people.** President Kabila has not sufficiently tackled the social question in the DRC and that is the main problem the DRC faces today. Unless there is a new dialogue within Congolese society to find an economic model that will protect the resources and ensure that revenue from resources are utilised properly to start resolving the social question the Congo the vicious circle of conflict will remain.

In conclusion the biggest mistake was to let the DRC progress forward without ensuring that all the things agreed at Sun City were implemented. The DRC continues to suppress institutions and these institutions are desperately needed to meet the needs of the population.

### 3.2 SECOND SPEAKER - H.E ROELAND VAN DE GEER

H.E Roeland Van De Geer is the former EU Special Representative for the Great Lakes Region and the current EU Ambassador to South Africa.

*“Ever since independence and definitely before independence the Congolese people have suffered a lot and that is why I think as an international community we should not disengage, we should not impose, we should not say you know you have to do it like this, we should be there as friends, as facilitators and be there also to protect people who work in a democratic way and are not tolerated by the Government”*



#### 3.2.1 The European Union's position on the DRC elections:

**His Excellency started his presentation with an update on the EU's analysis of the situation in the DRC stating that:**

- The EU believes that these were not at all good elections. The DRC's capacity to organise them was overstated, by the EU amongst others and fraud cases were a big issue.
- It's not that the EU wants to impose its judgement on these elections but they were asked to do so, to go there with observers, so they have to give their views. They were asked to observe and they observed, so they have a judgement.
- So the EU would argue that democracy has not been consolidated, that many people are extremely disappointed and the Government has in fact has been weakened. They think that the position of the Government of the DRC after the 2006 elections was strong and legitimised and the EU has given it enormous political support but today, although it's too early to make a definite judgement, the EU is very concerned about the position of that Government.
- They go so far as to say that a risk of a setback in the stabilisation in the DRC is a real risk. This is major concern because the EU, as well as the AU and the international community have a great interest in a stable and prosperous DRC.
- On the EU's role as a member of the international community they hold that democracy can only be developed and built in a country itself. The DRC will have to develop its own political culture and its own democracy and so far it seems the 2011 elections are a step back in this development.

On the other hand and in agreement with Dr Kabemba's contributions, His Excellency, on behalf of the EU was reassured that despite the violence and violation of human rights during elections, the DRC is in a stable situation and the Congolese themselves can jointly look at how to proceed.

However, he concurred *“We do not believe in the outcome of elections as a step for a next process of negotiations. The elections have taken place, the results are there, they have now to be accepted. Nevertheless, psychologically the elections in Congo are not over and the opposition will continue to ask its place in the democratic structures and I have to say one of the things one of the many things that I admire in the Congo is the capacity to involve the opposition in a meaningful way in Government, that has been done so far but we do not know how that will happen in the future.”*

### 2.3.2 Personal observations on the DRC elections and political situation

His Excellency spoke in his personal capacity expressing the view that:

- **The capacity of the DRC to organise elections was overestimated.** He noted cases of electoral fraud in certain districts and also highlighted that in certain cases flaws were technical and not linked to fraud. The previous election had much more resources, he said *“In fact they costed far too much, an insane amount which was paid for by the international community and of course we have to do it simpler but it could have been much, much better.”*
- The **violence and human rights violations** were a disgrace for the Government
- The **internal and international legitimacy of the newly elected President is seriously affected.** President Kabila has the capacity to play an international role and he deserves better and these elections should have put him squarely on the international front as a President of one of Africa’s most important countries.
- **There is still room for discussion between the Kabila and Tshisekedi camp.** But he spoke out against Tshisekedi, who he claims *“said many things that really are not acceptable and that he should not have said.”*
- In terms of **voting patterns**, there have been sharp differences within the country, a pattern that occurs in many countries and could point to the fact that **large parts of the population don’t feel represented** at the moment.
- The crucial point question is whether Kabila’s government will have enough legitimacy over the coming 5 or 6 years to build the country? Because the international community will need to assist the government in building the country but that won’t be possible if its own population doesn’t believe in it and is not ready to take the lead.

### 3.3 KEYNOTE SPEAKER - AMBASSADOR WELILE NHLAPO



The Ambassador is a long-standing member of the ANC and has worked in various positions in Government since 1994. He was part of the South Africa delegation to the UN General Assembly in 1994 when South Africa was readmitted to the world body. He has served ambassadorial posts in the Horn of Africa, East Africa and the United States. He has also participated in South Africa's conflict resolution efforts in the Comores, the DRC and the Great Lakes Region, Lesotho and Zimbabwe. He currently serves as the Chairperson of the Board of the Nelson Mandela Children's Fund in the US and is South Africa's Special Envoy to the Great Lakes Region and National Security Advisor to the South African President.

The Ambassador's presentation focused on an analysis of the current situation in DRC and the 2011 elections. However he opened with a remark on the importance of historical context saying, *"The Congo we are talking about today is a product of that history, a country that has always been treated as the private property of individuals."*

#### 3.3.1 The 2011 elections

**SADC and South Africa's position on the elections** was that the decision by the Congolese to hold and organise elections was a positive and necessary step in developing its democratic culture. Despite the numerous problems he questioned *"If we did not support the Congolese holding those elections what would we be talking about today?"* The Ambassador also asked for a certain degree of self-examination by all present to examine their role, not only in the elections, but their role in creating conditions within the region that have an impact on how democracy is consolidated in the DRC.

**i. He outlined the various problems encountered during the elections which included:**

- **The last minute changing of the Constitution** which caused a lot of confusion.
- **The voters roll process** caused a lot of hiccups, challenges and an anxiety as to whether the election would be credible.
- **Inadequate infrastructure to distribute electoral materials** around the vast country. Some of the materials never reached their destination and an extension of the election in some areas was precisely a result of that.
- **SADC's intervention in mandating countries that had the capacity to assist to do so.** South Africa and Angola provided helicopters that moved electoral materials to the polling stations. Within three days there was no doubt about where those electoral materials were, they were where they were needed at the date and time that had been determined.
- **The reluctance of the United Nations mission to fulfil its role.** It didn't and at the last moment they were not prepared to take election materials to where they were supposed to be. They were not ready to move observers so there needs to be a critical reflection on **the role of the United Nations** when it comes to elections, particularly in countries where they have problems with the host government. We saw that in Cote D'Ivoire, we're seeing that repeating itself in the DRC.

- ii. The number of candidates for both elections was also a huge impediment** to a smooth and speedy process. The legislative elections consisted of around 6200 candidates competing for 500 seats. This is surely a reason for contestation but for the Ambassador the most crucial question around this issue is 'why so many candidates?' This also made ballot counting a tedious process.

- iii. In terms of **the legitimacy of the DRC elections** it was highlighted that whilst the freeness of elections was easy to determine, fairness was more problematic. According to the Ambassador, *“the African observers for the first time met on their own, made an evaluation of that process and came up with a statement to say despite all the challenges and problems that everybody has observed that the Congolese have complied with the principles that have been defined by the AU, defined by SADC, and also the other regional communities...we believe that the Congolese have complied and that, because of that we felt that the process was credible and legitimate, we avoided ‘free and fair’, to go into that gamble. But free it was quite clear because we had mentioned that point, the Congolese came in their thousands to vote.”*

### 3.3.2 An overview of the DRC transitional process

- i. **On the conclusion of the transitional process the following points were made:**
- The decisions that the Congolese took at Sun City and **the transition that was ushered in has not been completed**. Crucial institutions are not fully functioning and this is a serious challenge.
  - On the other elections, **local government elections**, these have not taken place in the five years as determined. Therefore governance in terms of institutions has not spread to all parts of the Congo and at levels where it is important, namely at local government.
  - With these various process incomplete the environment in the DRC was not conducive to uncontested elections.
- ii. **On political conduct in the DRC** the Ambassador feels that this is an underlying cause of a lot of the challenges in Congolese politics. How people relate to governance and government institution are crucial as well as whether government *“is seen as the best employer, for the best brains in the country”*. The Ambassador relates that at the start of the Sun City negotiations the delegates wanted to agree that those in the room representing the various political and social forces would constitute the first parliament. The Ambassador reported **challenges with parliamentarians** understanding that they were not applying for jobs but were getting into serious national duty. There is a lot of work to be done and that should be the focus now, **ensuring that key institutions can deliver**.
- iii. **Security sector reform** is a very critical area. At this point the Ambassador pointed the finger inwards to his own Government and the EU as ‘principal culprits’, for encouraging a culture that was not conducive to building security institutions in the way it should post-conflict. He claims the international community agreed piecemeal contingencies rather than push for a common doctrine to allow a national army to develop. The donor community ended up training different units of the Congolese army on the basis of different agreements. The Ambassador added *“I think this is also what you should be looking at because all the other problems and challenges the Congolese have, it’s precisely out of this.”*
- iv. **On the role of women in the Congo** the Ambassador commented that the coming parliament must take a fresh look at the gender issue and take into serious consideration the factors and issues affecting women. He also added that care should be taken to ensure the mistakes *almost* allowed during the Congolese Dialogue, in which women were not allowed to come together to express their views as to how the country should be governed, should not be repeated.
- v. Finally the Ambassador raised debate about the **potential for violence in the Congo** and reported that South Africa’s assessment found no credible evidence of a military threat in the Congo. Despite being informed by one of the opposition parties that there would be an insurrection if Kabila won no such event has taken place and there is nothing to suggest that this is the case.