

Zimbabwe Focus Seminar hosted by DITSHWANELO – The Botswana Centre for Human Rights on 11 May 2000

I Ms Alice Mogwe Director, DITSHWANELO – The Botswana Centre for Human Rights

The Chairperson, Ms Alice Mogwe:

1. welcomed the participants and explained that the invitations to the seminar had only been issued over the period 10 –11 May 2000 in order to minimise the possibility of the speakers being prevented from leaving Zimbabwe. She appreciated the fact that so many of the invited participants had been able to attend the seminar at such short notice.
2. welcomed the speakers from Zimbabwe and introduced them to the guests. Mrs Feraï Cherera is a board member of The National Constitutional Assembly (NCA). Mr Isaac Maposa is the National Coordinator of the National Constitutional Assembly (NCA).
3. presented DITSHWANELO's reasons for hosting the seminar:
  - A. DITSHWANELO recognised that:
    1. the land invasions provide only one aspect of the crisis currently engulfing Zimbabwe
    2. the rule of law has been and continues to be seriously challenged
    3. Zimbabwe's economic health is of serious concern for the region
    4. Zimbabwe's political stability is linked to the political stability of the region. Already there have been concerns expressed in South Africa that some of those who were unlawfully deprived of land during the apartheid era, may be looking to the Zimbabwe experience which could become precedent-setting. In Botswana, the land question has not been adequately dealt with. 'Land reform is not just needed in Zimbabwe but in a number of countries in the Southern African region as well, Botswana included' (Kenneth Koma, Leader of the Opposition in the Botswana Parliament; The Midweek Sun, May 3 2000,3)
    5. SADC has not to date, publicly stated its position in relation to the crisis. Instead, there was support for President Mugabe's respect for the rule of law.
  - B. Without a clear understanding of the situation in Zimbabwe, it is difficult for critical and appropriate solidarity to be provided. The Government of Zimbabwe appointed a Constitutional Commission to present the draft Constitution. An alternative body, the National Constitutional Assembly (NCA) was established by a coalition of civil society groups. The NCA worked on a public information and education campaign to ensure that the public would be able to make informed choices in the referendum concerning the acceptability of the draft Constitution. Subsequent to the 'no' vote which rejected the draft Constitution, the Constitution was amended to legally permit compulsory land acquisition.
  - C. The aim of the Zimbabwe Focus Seminar was to provide a forum for the interactive sharing of information, by a civil society organisation, about the current situation in Zimbabwe. Those invited to the seminar comprised diplomats, government officials, the

Churches, political parties, NGOs and the media. This was to ensure that a broad spectrum of society could benefit from the presentations for the following reasons:

- a) There has been quiet diplomacy at work on Zimbabwe, however, the people of Zimbabwe do not appear to know much about it.
- b) Botswana is currently chairing the Commonwealth Ministerial Action Group<sup>1</sup>. It is appropriate that the Botswana Government, obtain as much information as possible about Zimbabwe from as many Zimbabwean stakeholders as are able to express their opinions.
- c) NGOs need to hear from Zimbabwean NGOs what is happening and how appropriate support can be given.
- d) The media need to hear the whole story and not rely solely on reporting what other news agencies are producing.

## II Mrs Chirera – Board Member NCA

Mrs Chirera presented an overview of the Zimbabwean situation as at 11 May 2000.<sup>2</sup> The major points made were the following:

1. **Inflation** is at approximately 70%; unemployment is about 56% and about 75% of the population lives below the poverty datum line; not enough money to buy fuel with the acute shortage of foreign currency
2. The **land issue** has remained unresolved for twenty (20) years. There is need for land reform and land re-distribution. However the process has lacked transparency, reflected cronyism and corruption has become enmeshed in the social fabric of the society. The government turned the rejection of the draft constitution to a land issue by amending the draft to include a provision that sought to impose an obligation on the British government to pay the compensation for compulsorily acquired land.
3. The **farm invasions**, which seemed to be a spontaneous reaction to the rejection of the government-sponsored draft, are well-calculated and well-orchestrated state operations. Government vehicles and army trucks are used to ferry the war veterans to forcibly occupy land. The exercise is coordinated by State agents and members of the army disguised as war veterans. Government has not condemned these invasions and openly supported them as peaceful political demonstrations. The effect is the sanctioning of land seizures. The police fail to act because of the claim that the land issue is a political issue and that it can not be solved by police intervention.
4. The **courts have declared the farm invasions illegal** and two court orders have been disregarded as the police fail to maintain law and order on the say of the Executive. The effect is of giving the war veterans the tacit approval that they are above the law.
5. **Murder of innocent people** began with the death of a policeman and a white farmowner, Mr Stevens from the Macheke area. Two Movement for Democratic Change (MDC) activists were petrol-bombed. Three commercial farm owners and MDC activists now form part of the nineteen (19) who have lost their lives. Police inaction has resulted in no arrests of the perpetrators of these murders. Government has failed to condemn the killings.

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<sup>1</sup> This group monitors political developments to ensure that fundamental political values are respected. Botswana is represented by Lt. General Merafhe, Minister of Foreign Affairs.

<sup>2</sup> *NATIONAL CONSTITUTIONAL ASSEMBLY – An overview of the Zimbabwean Scenario*. Paper presented at the DITSHWANELO seminar by Ferai Chirera and Isaac Maposa 11 May 2000 is currently an internal document as it has not yet been finalised.

6. There is **intimidation of people living in the rural areas** outside the farming communities where the majority voters reside. Several people have been abducted and beaten at night and in broad daylight and the police have not done anything about this. Intimidation involves coercion to join the ruling party (ZANU- PF) and to publicly renounce support for the MDC and other opposition parties. Widespread violence has led to internally displaced people (internal refugees) who have had to seek shelter in urban centres and elsewhere.
7. The **date for General Elections is still to be announced**.<sup>3</sup> The delay as at 11 May 2000 was viewed by some as an indicator that the government was buying time in the face of political-related violence, to declare a state of emergency. At the time, President Mugabe was running Zimbabwe 'on his own' as Parliament had been dissolved at the beginning of April.
8. Against this terror campaign and rampant intimidation, it is 'highly unlikely (that Zimbabwe will be able) to hold **free and fair elections**'. Zimbabweans are now being 'reminded of the terror tactics that the government has (been using) during the last three elections'.

### III Mr Maposa – National Coordinator NCA

Mr Maposa expanded on the main issues raised by Mrs Cherera in the following way:

1. He explained the **origins of the National Constitutional Assembly (NCA)**. It was formed in May 1997 by fifteen (15) opposition parties, civil society organisations, including the churches, to address the issue of the Constitution. At the end of 1999, the government formed the Constitutional Commission. NCA refused to participate in it because there was no clear legal framework within which the work was to be done. The 1949 Commission of Enquiries Act, upon which the Commission was based was unacceptably narrow because:
  - i) it gives power to the Executive to do what it wishes with the outcome of a Commission of Enquiry. An example of this is the Sandura Commission which led to the establishment of the War Veterans Fund in 1997/1998; and
  - ii) it would have allowed President Mugabe to manipulate the results of the Commission.

Instead, the NCA mirrored the process of the Constitutional Commission. What was observed was that both the process and the product were flawed. The draft Constitution sought to consolidate the power of the ruling party and that of the President. In contrast what the NCA would have preferred was a Constitution which both limited the power of the President and provided broad-based human rights guarantees.<sup>4</sup>

2. The **rejection of the draft Constitution** in the referendum on 14 February 2000 'set the mood for this year's election'. The draft had in fact already been amended before the referendum to insert the provision that the government would not be obligated to pay compensation for land which is compulsorily acquired, but that the British government should<sup>5</sup>. The effect of this decision by the government effectively:

<sup>3</sup> On SABC TV on 16 May 2000, it was announced that the dates for the election are 25 and 26 June 2000.

<sup>4</sup> Note that there have been fifteen (15) Constitutional amendments made by the Zimbabwean Government

<sup>5</sup> The amendment was subsequently inserted in the current Constitution. In terms of the Lancaster House Agreement, the fundamental aspects of the bill of rights could not be changed for the first ten (10) years after independence in 1980. In 1992, the Land Acquisition Act allowed for compulsory land acquisition and fair compensation.

- i) changed the debate from constitutional issues to land
- ii) there have been systematic but sporadic invasions by a group known as war veterans
- iii) sections of the army, including the State Security Department are coordinating the invasion activities
- iv) 'war veterans' have been awarded twenty (20) million Dollars to campaign for the ruling party. The leader of the 'war veterans' made this information public
- v) 2100 farms had been invaded (as at 11 May 2000) and government vehicles are used to deliver food to the 'war veterans'. The airforce has been used to 'do spot checks' on farms by the leader of the group.

Zimbabwe has now seen the emergence of a 'third force' (State Security sponsored groups) which is only accountable to the leadership, and possibly to the President<sup>6</sup>.

3. **Election-related violence** is not new in Zimbabwe, but this year there are various organizations affected by the violence. These include the MDC; ZUT (Margaret Dongo) and the party of Abel Muzorewa. These appear to pose a serious threat to ZANU-PF. The Catholic Commission for Justice and Peace (CCJP) and Legal Resources Foundation (LRF) Paralegals have also been under attack.

It has been stated that if ZANU-PF loses it will mean war in Zimbabwe and that 'the opposition should never be allowed to take over power'. An example of how political opposition is stifled was the Peace March of 1 April 2000. A court order had been issued preventing the March, but the police were unable to stop the march from taking place. Instead, ZANU-PF supporters attacked the marchers with branches.

3. The **role of the police** is of serious concern. They monitor the activities of civil society activists.
4. The law **is applied in an unequal manner**:
  - i) court orders are disregarded by the police
  - ii) there is a breakdown of law and order
  - iii) the government is not in control of the situation anymore

5. A crucial question is **what will happen should the ruling party lose the elections?**

**NOTE:** During his presentation, Mr Maposa showed extracts from the official Zimbabwe Broadcasting Corporation news bulletins over the past few months. The reports showed former supporters of MDC recanting and expressing their support for ZANU-PF. There were also news clips showing supporters throwing their MDC t-shirts and membership cards on the ground. Mr Maposa informed the gathering that a disturbing trend is now that of ZANU-PF using the MDC t-shirts to smoke out MDC supporters. Once their support for the MDC is clear, they are assaulted.

Mr Maposa also read a few statements from survivors of violent attacks by ZANU-PF supporters. In one case, the deponent states that he was beaten because he was told that Maposa had sent him. He was told to tell him that 'he would be next'.

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<sup>6</sup> The official arms of government, i.e. the police and the army are not taking action. The two court orders which declared the occupations illegal have not been implemented. The law is therefore being selectively enforced. Of the nineteen (19) deaths, only one has led to the arrest of a suspect. In another case, the perpetrator responsible for the petrol-bombing of someone is apparently known, and yet no action has been taken by the police.

#### IV Questions and Comments

1. A speaker mentioned that in terms of the Setswana culture, it is strongly believed that ‘we need to negotiate to settle a dispute – yet some of our people believe in using force’ She was of the opinion that in the Zimbabwe land situation, the fault lay with the government for not settling it timeously. She objected to the use of force by the war veterans.

Mr Maposa agreed with the sentiment that the fault for the current land problem lay with the government of Zimbabwe because it ‘has had the opportunity to solve the land question but lacked the political will’. This is illustrated in the culture of self-enrichment which has allowed ‘friends’ (of the leaders) to become farm owners<sup>7</sup>; the annual budget tends to prioritise defence, education and health. In 1990, the British government provided 44 Million British pounds for land redistribution<sup>8</sup>, however, progress stalled due to lack of transparency; at the 1998 Donor Conference on Land, there were clear guidelines drawn up. The international community pledged financial support for a two (2) year pilot phase. He also stated that peaceful means need to be followed.

2. A question was asked about what it is Presidents Mbeki and Mogae should be doing to assist the people of Zimbabwe? It was noted that President Mbeki’ appeared to be using a ‘softly softly’ approach.

Mr Maposa argued that ‘the soft approach is wrong ... because it is condoning a wrong’. He stated that ‘We feel betrayed by that approach’. Instead such an approach is a reflection of the kind of leadership in the (Southern Africa) region. President Mugabe was described by some of the region’s leaders as being the ‘master of the rule of law’. He rejected the option of sanctions against Zimbabwe because ‘sanctions will not hurt Mugabe’, instead, they will hurt the ordinary person.

Instead other options could be explored such as:

- i) The need for citizens of Botswana and South Africa to become concerned about the events in Zimbabwe. Economically, what is happening will ‘go into your pockets in terms of what you can put into your (shopping) baskets’
  - ii) African leaders need to discuss with President Mugabe about his ‘exit plan’
  - iii) Regional intervention will be crucial in the run-up to the general elections. It is impossible to envisage that elections held under the current situation could be free and fair. Peace and Election monitors comprising eminent regional persons would be extremely useful.
3. There was concern raised about the current mood in Zimbabwe and whether the ‘comrades are feeling safe?’ The speaker asked whether there was anything which SADC could do to assist. He also asked whether there was any internal cohesion in ZANU-PF as there are at times conflicting opinions from within the party and reported by the media.

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<sup>7</sup> Note: The Land Acquisition Act of 1992 allowed the government to buy land at will. In 1996 ZANUPF bought 270 farms for redistribution to black Zimbabweans, but they were given to high-ranking members of ZANU-PF. FAIRLDY briefing, May 2000, 52.

<sup>8</sup> Not all the money can be accounted for. Resettlement projects have virtually ground to a halt since 1990. FAIRLADY briefing May 2000, 52.

Mr Maposa said that the situation in Zimbabwe 'is bad' and that there is a lot of fear due to the violence and intimidation. Concerning potential assistance from SADC countries, he referred the speaker to his answer to the previous question.

4. A question was asked about the resources of the police as they have been reported to have not intervened to stop the occupation of farms due to lack of resources. The questioner also requested a comment on the current impasse.

Mr Maposa informed the meeting that the Commissioner of Police has stated that the police force was ready to 'handle any situation' even though they do not take any action about the farm invasions. Some of the acts of violence occurred in the presence of the police. The farmer, Stevens, was shot in the forehead by war veterans, the perpetrators are known by name and yet there is no action taken.

Mr Maposa also denied that there was an impasse as the two sides are not equally strong. On the one hand is the unarmed civilian movement and on the other, the police, the President and the army.

5. There was interest shown in whether opposition parties have policies on land reform. There was also clarification sought on whether or not the MDC was calling for a boycott of the general elections as contradictory reports have been made by the BBC (British Broadcasting Corporation)

Mr Maposa indicated that NCA has embarked upon international diplomatic missions. The visits are aimed at SADC, the OAU, Nigeria, the European Union, London and Brussels. Part of the reason for the trip to Gaborone was to make the necessary arrangements for the NCA delegation to meet SADC and officials of the Botswana government.

Concerning the conflicting media reports about the boycotting of general elections, he stated that Mr Morgan Tsvangirai, the leader of the MDC said that he had been misrepresented. What he had said was that there would be need to reassess the prudence of participating in the general elections in the current situation where people are being brutalised.

6. It was common knowledge that there was to be a Peace Rally in Harare on 13 May 2000. Would this still occur, given the situation?

Mr Maposa confirmed that the Peace Rally is to be held<sup>9</sup>. He also stated that NCA began 100 Days of Peace in terms of which activities are to be conducted geared towards encouraging people to speak out against violence. Methods to be used will be prayer sessions; the making of a quilt with the names of those who die during this time, etc. He also recognised the DITSHWANELO seminar as being a solidarity meeting and as a contributing activity in the peace process.

Mr Maposa appealed to the media, especially the BBC, to describe the war veterans accurately. He said that they were not, as often reported, squatters, but are instead invaders,, trespassers and criminals.

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<sup>9</sup> DITSHWANELO was informed on Friday 12 May 2000 that the police had granted NCA permission to hold the rally, but did not want to grant the permission in writing.

7. It was noted that in terms of the Constitution, the general elections are required to be held by the end of August 2000. There was concern expressed about the fact that the level of violence is deep-rooted and that there is need for political education.

Mr Maposa suggested that one way to counter the 'third force' would be to include the United Nations to assist in monitoring the situation

He also noted that there could be a constitutional crisis if ZANU-PF lost the general elections and an opposition party has to work with the President Mugabe. He stated that in theory, the Parliament could impeach the President in the event of there being a vote of 'no confidence' in the President. He however noted that it was also possible for President Mugabe to:

- i) dissolve Parliament. (In such event, there would be an opening for the army to step in. Already, key positions in parastatals such as Oil Co, the head of the Central Intelligence Organisation (CIO), The Commissioner of Police, etc. are held by former army officials.
- ii) dismiss his cabinet and appoint a new cabinet or
- iii) resign

His concern was that it was highly likely that President Mugabe would consolidate the network, which is already being put into place, to enable him to 'rule by decree ... (for) rule by Mugabe and the army'. Consequently, he cautioned that African leaders 'need to be careful when they play soft-peddle with Mugabe'.

#### V Mr Moletsane – Executive Director BOCONGO

The Executive Director of BOCONGO<sup>10</sup>, thanked the participants for attending the seminar. He stated that BOCONGO was disappointed with the 'soft -peddle' position which the government of Botswana had taken on the Zimbabwe situation. BOCONGO was concerned with the deterioration of democracy and the inappropriate use of community participation. The concomitant loss of life was disturbing. He was of the opinion that civil society ought to assist and called upon both the media and civil society to support peaceful means for the resolution of the crisis. BOCONGO was disappointed that SADC had taken a 'back-seat' on the issue, particularly as the region will feel the effects – Botswana included.

Mr Moletsane thanked the NCA guests for their presentations; the participants for attending the seminar and DITSHWANELO for facilitating the event. He expressed BOCONGO's support for DITSHWANELO's work and his belief that this seminar marked the beginning of a process of support for the proponents of peace in Zimbabwe.

#### VI Press Briefing

1. **BBC** Are France and Belgium providing any financial support to President Mugabe?
2. **Maposa** This is not known. The NCA believes that money for Zimbabwe's operations is generated from the taxes of the people of Zimbabwe. It is possible that some support may be coming from Kabila and in that way there may be a link with France and Belgium

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<sup>10</sup> The Botswana Council of NGOs. DITSHWANELO coordinates the Human Rights sector of BOCONGO.

3. **The Gazette** The Government of Zimbabwe was prevented from acting in the land issue for ten (10) years after independence, in terms of the Lancaster Agreement. Can the land problem be traced to the Lancaster talks?

**Maposa** The Government has had the last ten (10) years within which to take action on the issue. It has had the power to alter the Constitution. It had the opportunity to put pressure on Britain in 1990, but did not – why not?

In 1990/1994 the Government was offered land by commercial farmers, but did not buy it then. The budget provision for land was insignificant.

The white farmers are themselves in debt to the banks. One effect of the land acquisitions is that the State is taking on the debt burdens.

71 farms were taken by Ministers in 1994. The President promised to rectify the situation, but never did.

4. **Mmegi** If the opposition wins the general elections, can the land issue be resolved?

**Maposa** There is need for land distribution, but the question revolves around the process of distribution. The MDC has identified the economy, land, the Constitution amongst its priority areas. It is important that we take responsibility for Mugbe's actions – we put him there.

5. **Gabz FM** The international community is calling for elections – is this a good idea given the current situation of violence and intimidation?

**Maposa** We need the elections to take place as we currently have no Parliament. However we need to have certain pre-conditions satisfied before the elections can be held:

- i) there should be three to four (3-4) months before the elections to allow for the establishment of an environment conducive for canvassing by all political parties
- ii) confidence needs to be restored so that every Zimbabwean may exercise their right to self-determination without fear of coercion
- iii) election monitoring and the determination of free and fair elections can only be done if the environment is conducive for free and fair elections. Unless something is done to reverse the current situation, the elections will not be free and fair. It is not too late to work on this.