



MEETING OUTCOME REPORT

“CIVIL SOCIETY, HEAD OF SADC ELECTION OBSERVER MISSION & DIRECTOR OF ORGAN ON POLITICS, DEFENCE & SECURITY ON POST 29 MARCH 2008 ELECTION DAY SITUATION”

Tuesday, 22 April 2008, Harare, Rainbow Towers, 10 – 12 a.m.

Submitted To:

Key Stakeholders

For further Information Contact:

National Association of Non Governmental Organisations (NANGO)

ADVOCACY AND PUBLIC POLICY UNIT

P. O. Box CY 250, Causeway

Harare, Zimbabwe

Phone: +263-4-708761 or 703579

Fax: + 263-4-794973

Email: tania@nango.org.zw; fambai@nango.org.zw

Website: www.nango.org.zw

1. INTRODUCTION & SHORT OVERVIEW OF MEETING

On 22 April 2008 representatives of Civil Society met with the Head of the SADC election observer mission, Honourable Angolan Minister of Youth and Sport Mr. Jose Marcos Barrica, and the Director of the SADC Organ on Politics, Defence and Security, Tanki Mothaey.

SADC convened the meeting to share information about the current Zimbabwean Post 29 March Election Day situation. About twenty representatives from various Civil Society Organisations were in attendance at the meeting and were given opportunity to make representations to the SADC representatives. The meeting was opened by a keynote presentation by the Honourable Minister; this presentation was a commentary on the SADC position on key developments in the Zimbabwean electoral process and other attendant issues. Notably the Minister provided clarity on the mandate and composition of the Observer Mission that returned to observe the recount process. Civil Society representatives broadly commented on the post election situation and raised concerns from various viewpoints about the deteriorating human rights, security, humanitarian and political conditions in Zimbabwe. The Civil Society delegation roundly called for a greater SADC intervention to address the manifold challenges in post-election Zimbabwe.

2. THE CIVIL SOCIETY & SADC MEETING IN CONTEXT

On the day of the meeting, twenty-four days after 29 March 2008 Election Day, the results of the presidential election had still not been officially published and rising cases of politically motivated and retributive violence had become the highlight of the post-election scenario.

A recount process in 23 constituencies was still underway by the time of the meeting. However it remained unclear how long it would take for the recount process to elapse and the extent to which the new set of results would affect/supersede the original unannounced election results. The Zimbabwe Electoral Commission (ZEC) had initiated this recount by informing the public that it had ordered a recount in terms of Section 67A Electoral Act [Chapter 2:13] in 23 constituencies of the country. ZEC gave as the reason for the recount that in terms of Section 64 (1)(d) Electoral Act [Chapter 2:13], there were reasonable grounds for believing that the votes were miscounted, and that the miscount would have effected the result of the election. The public was not informed what these reasonable grounds were specifically.

Civil Society has so far rejected the recount process, demanding that the full results as were posted on polling stations be announced first. There are also strong sentiments against the massive resource haemorrhage that has been precipitated by the recount process, noting that the resource could have been channelled to address the longstanding humanitarian challenges in the country.

Reports about spreading violence in the country had increased. Election observers, supporters or alleged supporters of the opposition party and in some cases ZANU-PF supporters were violently targeted in different parts of the country.

National rhetoric in line with the Third *Chimurenga* (Liberation War) was continuing in the state sponsored public media thus considerably heightening public uncertainty and anxiety. This was compounded by reports of the deployment of war veterans to various communities and reports of a Chinese ship carrying arms destined for Zimbabwe.

The High Court of Zimbabwe had decided on 14 April 2008 in the case MDC-Tsvangirai vs. ZEC that the electoral body was not under any obligation to release the presidential election results immediately. Judge Tendai Uchena of the High Court of Zimbabwe had decided against the MDC-Tsvangirai petition in which the opposition party had challenged ZEC asking that the court should order ZEC to immediately release the presidential election results. Judge Tendai Uchena had agreed that it was important that the results be released, but according to Section 67A (4) Electoral Act [Chapter 2:13] the release of the results did not have to be immediate. Section 67A (4) Electoral Act [Chapter 2:13] states: "The Commission may on its own initiative order a recount of votes in any polling station if it considers there are reasonable grounds for believing that the votes were miscounted and that, if they were, the miscount would have affected the result of the election." In the Electoral Act it is not set out expressly that a decision by ZEC regarding a recount can be subject to an appeal.

On 12 April 2008 SADC held an extraordinary summit in Lusaka. The meeting was convened to address the Zimbabwean situation. Robert G. Mugabe did not attend the meeting but sent a delegation comprising Cde Mnangawas, Cde Chinamasa, Cde Mumbengegwi and Joey Bimha. In a joint resolution the SADC leaders called for ZEC to speedily verify and publish the election results. The resolution also urged all parties to accept the outcome and that South African President Thabo Mbeki to continue his role as facilitator for SADC.

Zimbabwean Civil Society has variously expressed displeasure with the demonstrable failure of the Thabo Mbeki mediation process and urged for greater intervention by SADC going beyond the quiet diplomacy policies pursued by Thabo Mbeki.

3. KEYNOTE ADDRESS: HONOURABLE MARCO BARRICA, HEAD OF THE SADC ELECTION OBSERVER MISSION, ANGOLAN MINISTER OF YOUTH, SPORT AND CULTURE

The Head of the SADC election observer mission to Zimbabwe, Honourable Minister Marco Barrica, pointed out that SADC had taken notice of the letters and statements of Zimbabwean Civil Society addressed to SADC with regard to the Zimbabwean situation. Mr. Barrica said that the reason why he had convened the meeting was to create an opportunity for information sharing. The Minister acknowledged that citizens had the right to ensure that their rights were being respected and acknowledged that the citizens of Zimbabwe were worried. Mr. Barrica expressed his appreciation of Civil Society being willing to share thoughts and to inform him at the meeting.

The Minister described the election observation process of the SADC election observer mission in Zimbabwe. He pointed out that the SADC election observer mission had arrived before 29 March 2008 Election Day to observe the electoral process until and on Election Day. The SADC election observer mission to Zimbabwe had comprised 164 observers and these observers had been placed throughout the country.

The Minister highlighted that the SADC election observer mission was not part of the electoral process of Zimbabwe and did also not manage it. Its mandate had been and remains as being to monitor and observe the electoral process and to advice on the management of the electoral process.

In its first Observer Mission the SADC team had found the environment to be conducive for elections and the conduct of the voting process to be above board.

The SADC election observer mission had met with representatives of ZEC, political parties and candidates from the different parties, and with ambassadors from different regions (European Union, Americas, Africa, and Asia). The aim of these meetings had been to exchange impressions and to get to know the different viewpoints. The Minister pointed out that the SADC election observer mission had had to be careful with its analysis regarding the information it had received from the different stakeholders – including from its own observers on the ground. The SADC election observer mission had balanced the information it received and had drawn the conclusion that the environment had been conducive for the holding of free and fair elections prior to Election Day and on Election Day. Not everybody had agreed with this SADC election observer mission position.

The SADC's election observer mission had been mandated to see whether the climate would be conducive, so that the electorate of Zimbabwe would be able to express its will in a free and fair manner. On 29 March 2008 when the electorate went voting the condition was peaceful and thus conducive. SADC election observers had gone from one polling station to the other and had witnessed the peacefulness of the polling process. Even the fear that had been raised before Election Day that police present in polling stations would intimidate voters was not fulfilled on Election Day.

Representatives of the SADC election observer mission talked to representatives of the different parties on Election Day and got the information that no problems had arisen during the polling process. Normally the SADC election observer mission would have ended there. Therefore the SADC election observer mission had released its election monitoring statement.

The Minister pointed out that some people had criticised the SADC election observer mission for having made its statement prematurely. But the Minister stated that the SADC election observer mission had only had the responsibility of observing the election process – regardless of the election result. Information that SADC election observers had received from the polling stations on Election Day had given the impression that the election result would be received without challenges.

A meeting between the SADC election observer mission and candidates of the opposition – Makoni and Tsvangirai – had taken place at midnight 30 March – 1 April 2008. At that meeting the opposition candidates had urged the SADC election observer mission to remain in Zimbabwe. But the SADC election observer mission had to inform the politicians that since the mission's mandate was limited, the observers would have to leave. Just in the case of a run-off the SADC election observer mission would be able to return if it was invited.

Mr. Barrica stressed that in a scenario of post electoral conflict it was not up to the SADC election observer mission to decide and to come up with a new mandate. A SADC election observer mission was not the feasible instrument for such a scenario. A mission of mediation would be necessary.

The Minister explained that all of the above reasons had been the reason why the SADC election observer mission had left. The SADC election observer mission had been convinced that the decision of the people would be respected. Unfortunately that had not been the case.

As Head of the SADC election observer mission it had been necessary after Election Day to inform the Head of SADC Organ on Politics, Defence and Security and the Zambian SADC Presidency. SADC had to find a solution to what was happening in Zimbabwe. Thus, the extraordinary summit of Heads of State had been convened in Lusaka on 12 – 13 April 2008. Robert G. Mugabe had not been present at the meeting. Simba Makoni and Morgan Tsvangirai

had been present in Lusaka and had met with SADC leaders. Mr. Barrica pointed out that SADC's goal was not to directly intervene in the internal situation in member countries but that it was trying to find solutions through dialogue.

SADC's goal was to ensure the reign of justice and reason. Thus the electoral agency in Zimbabwe had been asked to publish the results speedily. SADC had been informed that ZEC had announced a recount in several constituencies, thus the SADC election observer mission was re-invited to observe the re-counting process. The SADC election observer mission therefore returned with 53 members – 1/3 of the preliminary election observer mission. The SADC election observer mission arrived in Zimbabwe for the recounting process and initially had been thinking that this process would take a day. But, the situation on the ground was showing that the process would take longer. Thus the SADC election observer mission would have to stay. Mr. Barrica stressed that the SADC election observer mission would stay "as long as it takes". But the process should be as fast as possible. The Minister stated that the citizens should not be held hostage through the withholding of the results.

The Minister said that it was necessary to look for ways and means to end the suffering of the people. Some people would speak about the necessity of a military intervention. Others would ask for a violent up rise. Some politicians were speaking about a war.

The Minister stressed that the goal would have to be to ensure that no war situation would arise in Zimbabwe. He himself had lived through war. From his experience he knew that the horrors of war had to be avoided.

4. REPRESENTATIONS FROM CIVIL SOCIETY

The floor was opened up for representatives of Civil Society to address the SADC election observer mission panel.

The representatives of Civil Society introduced themselves with names and stated which organization they were representing. However due to the sensitivities of the information presented, and the dangers for Civil Society Organizations and their representatives, the names or organizations are not mentioned in this Report.

- **SADC URGED TO ENSURE STOPP TO AND PREVENTION OF VIOLENCE**

A Civil Society (CS) representative raised the concern that when looking at the escalating violence in the whole country, Zimbabwe was not heading into a warlike situation. The country was already in a war situation. The CS representative pointed out that it was not a question of observing elections any more but that it was a question of peacekeeping.

Action Point:

The SADC mission should not be limited to election observation. SADC would have to find a way of stopping and preventing the violence.

- **PROOF OF POST 29 MARCH 2008 ELECTION DAY VIOLENCE**

Another CS representative of an organization which works with victims of violence and torture informed the SADC election observer mission panel about the cases of violence it had taken care of since 29 March 2008 Election Day. The organization offers victims of violence non-partisan access to medical treatment. The organization has doctors countrywide.

The CS representative acknowledged that in the two weeks prior to 29 March Election Day – when the SADC election observers had been present – there had not been much violence. But since the departure of the SADC election observers the organizations had witnessed a rapid upsurge:

- On 13 April 2008 the organisation had recorded 156 verified victim cases which had been treated,
- on 18 April the number had risen to 247 cases and
- on the day of the meeting – 22 April 2008 – the number of cases had risen to 456 cases.
- More than 100 people had been in a condition that made hospital treatment necessary due to severe fractures and other severe injuries.
- More than 90% of the victims were election observers or MDC party supporters; 5% of the victims had been caught in cross-fire and in several cases the victims were ZANU-PF supporters who had been targeted by supporters of the same party. In the majority of the cases the perpetrators had been either ZANU-PF Youth or Youth Militia.

The cases were showing that the victims had been targeted specifically and that the victimization had not been “by chance”. Many victims had been called for meetings prior to being targeted. Several victims had been beaten publicly; many had been abducted and beaten. The organization had also verified reports about the destruction of livestock.

The CS representative pointed out that these acts of violence had taken place in Mashonaland West, Mashonaland Central, Mashonaland East, Manicaland and the Harare high density areas. At the beginning of the attacks these had been perpetrated during the night, but increasingly the attacks would even take place in daylight.

The CS representative stated that the organization had compiled a report which it would give to the SADC panel. Additionally the CS representative showed the panel photos of injuries which had been inflicted after 29 March 2008 Election Day. The photos showed crushed hands and legs, bilateral broken arms, haematomas of buttocks, missing teeth, a dead body - person was stabbed to death by Youth Militia.

The CSO representative informed the SADC panel that the access of hospitals was problematic since e.g. representatives of the CIO (Central Intelligence Organization) were blocking access. Drivers of Ambulances and doctors were threatened.

Internal displacement had also been on the increase particularly in the rural areas. Thousands of people had lost their homes since their houses had been burned down and these same people were finding it increasingly difficult to reside in their communities given the political volatility.

The CS representative pointed out that the organization could present proof for all these cases. It was in possession of proofs and affidavits that SADC could access. The CS representative also invited the panel to visit hospitals to see the cases of violence personally. The organization was not able to provide the panel with a final report since the cases of violence were increasing with the hour.

CS representatives from other Civil Society Organizations informed the panel that they were receiving the same verified reports about Post 29 March Election Day violence spreading in the country.

One CS representative highlighted that its organization was litigating cases of organized violence and torture. These cases and the information that the organization was receiving through its country-wide network were echoing the cases of violence pointed out by the previous CS representative who had spoken.

Another CS representative shared a verified report of a man who had been threatened with castration to ensure that he would not breed more MDC children. The castration process was only halted since the perpetrators were not able to use the animal castration machine that they had borrowed.

Not only were human beings victims of the violence. Animals were also targeted. A CS representative pointed to verified reports of burned cattle and goats which had been blinded by cutting out their eyes.

A CS representative stressed that due to these proven cases of violence it was unbearable that a representative of SADC was revering to the situation in Zimbabwe as not being a crisis.

Keeping in mind that a possible run-off would take place, a CS representative pointed out that many people would not be able to cast their vote since they had either been driven out from their homes or their necessary documents had been burned.

Action Point:

SADC needs to help stop the violence. SADC also has to acknowledge that there is a crisis in Zimbabwe. SADC also needs to take measures to help protect citizens and to prevent increased conflict and possible Civil Strife in Zimbabwe

- **CRISIS IN ZIMBABWE MULTIFACETED, GOING BEYOND THE RESOLVING OF ELECTORAL PROCESS TO ADRESSING SECURITY, HUMANITARIAN, HUMAN RIGHTS CHALLENGES**

Another CS representative commented on the fact that Head of the SADC election observer mission had stated that the Pre 29 March Election Day environment and the environment on Election Day allegedly had been conducive for the holding of free and fair elections.

The CS representative stressed that the crisis in Zimbabwe did not only go back to the days before the 29 March Election Day and the election process itself.

Zimbabweans were living in an environment in which the constitution was flawed not ensuring the human rights of the citizens of Zimbabwe, in which repressive legislation was prevailing and in which not enough safeguard to protect the fundamental rights and freedoms of the people were in place.

The cases of violence were just a symptom of the situation. An intervention by SADC thus needed to be bigger and did not only have to focus on the electoral process. The SADC initiative lead by President Mbeki was not enough.

Non Governmental Organizations (NGOs) have been bending over backwards, trying their best, to provide humanitarian, legal and medical assistance to the vulnerable citizens, who have fallen victim to the post election violence. All NGOs in Zimbabwe were working in an environment which was dangerous. NGOs were also seriously constrained by limited resources due to the ostracisation of the country from the international community.

So called War Veterans and Youth Militia were deployed in the country, some of whom are carrying arms. A security problem is being created and could escalate into civil strife. This security problem would need SADC to stem up its efforts. SADC would have to help to disarm and disband these groups.

Prior to 29 March 2008 Election Day the social service system had already collapsed in Zimbabwe. Many people did not have food, children were not able to go to school and medical treatment had been extremely limited. In the Post 29 March Election Day period this situation had deteriorated overall.

The CS representative called upon SADC not to focus only on the electoral process but to focus on the larger picture. Even if the results would be received, the political violence and internal displacements would still prevail. Civil Society urges SADC to do more. At present Civil Society was under the impression that SADC was waiting until dead bodies were littering the streets of Zimbabwe before it could intervene.

The courts were neither able nor willing to protect the citizens, the hospitals were not able to heal the injured and the people of Zimbabwe were not able to feed themselves. Zimbabwe was in urgent need of help from SADC.

Action Point:

SADC would have to stem up its efforts to address the critical security situation. SADC should help to disarm and disband so called War Veterans and Youth Militia. SADC should assist in the provision of humanitarian assistance for the internally displaced and victims of political violence

• **NEGATIVE IMPACT OF POST ELECTION VIOLENCE AND DISRUPTION OF SOCIO-ECONOMIC LIFE OF CHILDREN**

A CSO representative informed the panel that even though children were not eligible voters they were suffering tremendously by the Post 29 March Election Day Violence. Adults were able to protect themselves to a certain extent, but children were especially suffering – especially the ones where the families had lost their homes. The CS representative stated that its organization had been invited to the MDC headquarter to see the children who are being housed there who have lost their home.

The CS representative called upon SADC to move away from “self-denial”. If SADC was not admitting a crisis then there would never be a solution.

Action Point:

SADC should help in establishing security mechanisms and safeguards against massive human rights abuse and internal displacement which mostly affect children.

• **REPRESSION OF POLITICAL ACTIVISTS**

A CS representative highlighted to the panel that political activists were in a critical situation. On the day of the meeting 106 political activists were detained in Harare Central Prison. Initially 264 had been imprisoned. Prisoners were e.g. senior MDC officials.

The police was going on nightly raids on MDC supporters. The arrests were allegedly connected to the planned 15 April 2008 stay away.

The CS representative pointed out that during the time when SADC had been in the country, service chiefs had stated that they would not accept violence had that people should accept defeat when loosing in the elections.

But it had been recorded widely that the same service chiefs had announced before that they would never accept a victory of the opposition. A member of the SADC observer mission had been asked to comment on this statement. He had declined to do so since allegedly the utterances by service chiefs had not implication for the electoral process.

The CS representative pointed out that these same service chiefs were still in power and that the members of the last government were still acting. The CS representative called upon SADC to create a comprehensive position on the crisis in Zimbabwe.

The crisis in Zimbabwe was not only affecting Zimbabwe itself but the region.

Action Point:

SADC would have to address the critical situation of political activists and the continued use of repressive legislation and the security machinery to repress opponents of ZANU PF. SADC should keep in mind for its analysis of the Zimbabwean crisis the pre election utterances of service chiefs not to accept an opposition victory since they would only salute the incumbent.

• **UNCONDUCTIVE ENVIRONMENT FOR A RUN-OFF PROCESS**

A CS representative highlighted the strong possibility of a run-off being held without resolving the negative environmental factors that promote an un-free and un-fair elections process. The cases of violence and intimidation would make the situation not conducive for the citizens to free and fairly express their will.

The SADC election observer mission therefore would have to monitor under which situation Civil Society was operating. Election observers had been targeted and had been caught up in violence. The SADC election observer mission should thus focus on how Civil Society could impact and interact with the electoral process.

Another CS representative stressed that SADC would have to understand that the political violence was a deliberate policy. This policy was carried out to intimidate and terrorize the electorate.

Action Point:

SADC election observer mission should monitor closely the environment since in the case of a possible run-off the current environment was pre-election environment. The SADC election observer mission should focus on how Civil Society could impact and interact with the electoral process keeping in mind that the Post 29 March Election Day violence was a deliberate policy of intimidation.

5. CONCLUDING RESPONSE BY THE SADC PANEL

The SADC panel took the opportunity to respond to the representatives of Civil Society in a concluding statement.

Mr. Jose Marcos Barrica expressed his gratefulness for the contributions by Civil Society at the meeting. He stressed that the meeting had been convened to share information on the Zimbabwean situation. The SADC panel was not there to answer questions but was only there to hear information.

But the Minister stressed that **SADC indeed recognised that there is a crisis in Zimbabwe. That a representative of SADC stated that there was no crisis in Zimbabwe was the person's personal opinion. No-one was denying that there was a crisis in Zimbabwe.**

Many issues that Civil Society had pointed to during the meeting were going beyond the SADC election observer mandate. But the panel was collecting the information and would advise SADC on how to mediate in the political, economic and social crisis in Zimbabwe.

SADC would have to decide if eventually a mission of mediation would have to be created to deal with the broader crisis. The SADC Mission will be able to help prepare the way for the creation of such a mission.

Mr. Barrica stressed that it was important to find a way to reconcile the nation. The Minister asked the representatives of Civil Society how long they believe the reconciliation process would take. Members of the Civil Society audience replied that the country was not in need of a reconciliation process as there were no warring factions fighting against each other. Rather there is one political party that is trying to eliminate any opposition. The Post 29 March Election Day violence was a deliberate punishment for having made the wrong choice in voting for the opposition. Reconciliation could be considered after the state sponsored violence has been ceased.

The Minister stressed that a reconciliation process did not only have to be possible but it was necessary since Zimbabweans are condemned to live with each other.

The Director of the SADC Organ on Politics, Defence and Security, Tanki Mothaey, stated that it was his obligation to report to SADC as urgently as possible. He called for evidence being brought forward which would be necessary.

He stated the SADC Organ on Politics, Defence and Security was responsible for ensuring peace. If there was any suspicion that there was a situation which was creating security challenges the Organ would react.

If the information presented by Civil Society could be proved then the SADC Organ would lobby for a SADC mission to come back to Zimbabwe as peacemakers and not only as election observers

// Ends