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SOUTHERN AFRICAN POLITICAL ECONOMY SERIES



**National Endowment
for Democracy**
Supporting freedom around the world

REPORT OF THE INTERNATIONAL CONFERENCE ON:

**“ZIMBABWE GOING FORWARD:
CONSOLIDATING THE DEMOCRATIZATION PROCESS AND
REINFORCING RE-ENGAGEMENT WITH THE GLOBAL
COMMUNITY”**

SOUTHERN AFRICA POLITICAL ECONOMY SERIES (SAPES) TRUST

AND

NATIONAL ENDOWMENT FOR DEMOCRACY (NED)

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ACRONYMS

BOTs	Build-Operate-Transfers
CCZ	Crisis Coalition of Zimbabwe
CIMA	Centre for International Media Assistance
CIPE	Centre for International Private Enterprise
CSOs	Civil Society Organisations
EU	European Union
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GPA	Global Political Agreement
GNU	Government of National Unity
IMF	International Monetary Fund
ICT	Information and communication technology
JICA	Japan International Cooperation Agency
MDC	Movement for Democratic Change
MDC - M	Movement for Democratic Change (Mutambara)
MDC - N	Movement for Democratic Change (Ncube)
MDC - T	Movement for Democratic Change (Tsvangirai)
MP	Member of Parliament
NED	National Endowment for Democracy
SADC	Southern African Development Community
SAPES	Southern Africa Political Economy Series
SEZ	Special Economic Zones
UK	United Kingdom
US	United States
UZ	University of Zimbabwe
ZANU (PF)	Zimbabwe African National Union – Patriotic Front
ZAPU	Zimbabwe African People’s Union
ZCTU	Zimbabwe Congress of Trade Unions
ZIMASSET	Zimbabwe Agenda for Sustainable Socio Economic Transformation

BACKGROUND

SAPES Trust and NED work in partnership to promote democratisation and strengthen democratic institutions. Sapés Trust works to facilitate multi-stakeholder dialogue around governance, democracy and national development as well as promoting civic participation in international dialogue. The 2014 International conference was aimed to build on two previous conferences in July 2012 “Re-thinking Zimbabwe” and July 2013 “Beyond Elections in Zimbabwe”, hosted by NED in Washington DC. Sapés Trust led a delegation of all the three political parties to the Global Political

Agreement, Zanu PF, MDC-T and MDC, and representatives of civic groups to attend both events, aimed at reinforcing Zimbabwe’s engagement with the global community.

The objectives of the May 2014 international conference was to bring together all stakeholders to the national development of Zimbabwe, to deliberate and identify effective approaches to reinforce the country’s re-engagement with the global community and support the democratisation process.

CONFERENCE OBJECTIVES:

The objectives of the conference were to;

- a) Encourage debate around the socio-economic and political developmental trajectory predicated on constitutional reforms, a sound macro-economic framework, strengthened national institutions, civic society engagement and re-engagement with the global community;
- b) Bring together government, the private sector, civic society and the international community to exchange ideas on re-engagement and investment in Zimbabwe;
- c) Identify lessons, constraints, design strategies and build consensus among government, the private sector, civic society and the international community in implementing policies that promote good governance;
- d) Build strong and joint initiatives among government, the private sector, civil society and the global community;
- e) Provide policy recommendations in the implementation of constitutional reforms, promoting economic recovery, strengthening national institutions and engaging with the global community; and,
- f) Help to strengthen initiatives towards Zimbabwe’s re-engagement with the global community.

OPENING REMARKS

Ibbo Mandaza: SAPES Trust and Dave Peterson of NED set the tone by welcoming participants and re-affirming the objectives of the conference. The conference is an opportunity and a critical space for reflection, experience sharing and charting a unified way forward in re-enforcing re-engagement with global community and consolidating democracy. The centrality of multi-stakeholder collaboration in Zimbabwe's current economic, social and political climate cannot be overemphasized and SAPES is committed to facilitating the dialogue in an open, forthright and constructive manner. The oil that drives nation building lies in joining forces in the spirit of truth, collaboration and mutual accountability. We appreciate all the support and contribution given to SAPES by all and look forward to open and forthright discussions as we chart the way forward for Zimbabwe.

Dave Peterson: This is the third in a series of Zimbabwe conferences we have held in partnership with SAPES Trust. It really began with a conversation Ibbo Mandaza and I had some four years ago. I have known and respected Ibbo Mandaza for more than 20 years, but after having been out of touch for a while, I sought to tap his wisdom regarding the nature of the Zimbabwean state. I had been doing some research on some other African political systems and was coming up with some intriguing findings and wanted to explore with him how they might apply to Zimbabwe. What I had found, and what is becoming

increasingly apparent, was a new model of African political systems which seemed to be bucking the trend of democratization on the continent. These systems happened to be not simply authoritarian, but in many respects, verging on totalitarian, according to the classic model of state-party-social conflation, ideological drive, and mass participation. Yet these countries were close partners of the Western democracies, particularly the US.

Zimbabwe, by contrast, had been isolated. The elements of this new authoritarianism, however, did not seem to be present here. Instead, for all its weaknesses and dysfunction, Zimbabwe seemed to have a multi-party system, even during the government of national unity. The elections, whatever their flaws, including unfortunate violence, seemed to be some reflection of the popular will, especially when tracking them with credible polling data. Crucially, civil society seemed to be robust and operated with reasonable freedom. Freedom of the press, despite some limitations, nevertheless appeared to be substantial. There was a serious, independent trade union movement and business community. Few remnants remained of an all-encompassing ideology, and the kind of compulsory mass participation identified with the neo-totalitarian systems was not apparent either. I could only conclude that there was a double standard at work.

The first two conferences in this series, in their own way, succeeded in pointing out this contradiction. We brought representatives of all the parties together in Washington, along with business and labour representatives, political analysts, as well as US government spokespersons. I would like to think these two events helped demystify Zimbabwe for some policy-makers in Washington, as well as contributing to the debate in Zimbabwe, by showing that real democratic exchange could happen among Zimbabweans and that there was considerable consensus around which progress could be encouraged. All sides were able to express their positions freely, and I don't think any of us was blind to the problems and differences and challenges that still exist.

This conference that is now being held in Harare is intended to take this conversation one step further. I consider now to be an opportunity to restore friendly relations between the US and Zimbabwe, both politically and economically. I believe that with implementation of the new constitution and greater political will, Zimbabweans can make sustained progress in consolidating democratic institutions

and culture. Freedom House has given Zimbabwe a modest arrow ticking up this year, but I think there is no reason why the country should not be rated in the free category in the near future. There's a lot of work to do, and I expect this conference will lay out some of the benchmarks and strategies for getting there.

I hope that Ambassador Wharton and his staff will be able to convey to Washington that this conference has intensified the engagement between the US and Zimbabwe, and has made a contribution to democracy here. In some other countries to which I have travelled recently, citizens are afraid to debate openly or express any criticism. Other countries are consumed with horrific civil war and even genocide. Here in Zimbabwe we are able to come together and discuss controversial issues openly and peacefully, in the spirit of fellow Zimbabweans and international partners. That's the way it should be. I must make it clear that my remarks today are my own personal views and do not reflect the policy of the National Endowment for Democracy, and certainly not that of the US government.

OFFICIAL OPENING OF THE CONFERENCE

KEYNOTE SPEECH BY THE MINISTER OF FINANCE AND ECONOMIC DEVELOPMENT, HONOURABLE P.A. CHINAMASA (MP)

Members of the Diplomatic Corps;
Government Officials; Sapes Board; NED
Officials and visitors to Zimbabwe;
Invited Guests; Ladies and Gentlemen;

I am informed that this conference comes against the backdrop of two similar conferences in July 2012 with the theme “Re-thinking Zimbabwe” and in July 2013 with the theme “Beyond Elections in Zimbabwe.” At both these conferences, Sapes Trust led a delegation made up of all the three political parties to the Global Political Agreement that is, Zanu PF, MDC-T and MDC, representatives of civic groups to attend these conferences in Washington.

This conference is therefore an extension of both these two previous conferences and the Sapes Trust Policy Dialogue Forum, an important forum that has established itself as a veritable think tank and non-partisan platform through which to discuss pertinent issues of the national, regional and international levels. I have had the pleasure of addressing the Sapes Trust Policy Dialogue Forum on a number of occasions.

In line with the theme of the conference, “Zimbabwe Going Forward - Consolidating the Democratization Process and Reinforcing Re-engagement with the Global Community,” the importance of this initiative cannot be overemphasized. The theme of this

conference is two-fold. It acknowledges the implementation of the new constitution as part and parcel of Zimbabwe’s democratization process; and encouraging closer interaction between Government, the private sector and civil society in reinforcing Zimbabwe’s engagement with the global community.

Therefore, these initiatives are critical in complementing the Government’s efforts, particularly the work being done by the Ministry of Finance and Economic Development towards engagement with the IMF and other multilateral organisations, namely, the Staff Monitored Programme (SMP), discussions on Zimbabwe’s debt arrears clearance relief and appropriate fiscal and monetary policies – all of which are geared towards macro-economic stability, renewed foreign direct investment, economic growth and progressive social development.

For the avoidance of doubt, let it be known and understood that the policies that we are pursuing and implementing under the IMF Staff Monitored Programme are policies crafted by us and not the IMF and are for the benefit of the economy of Zimbabwe and if successfully implemented will lead to the economic recovery of our country. It is and remains in the country’s strategic interest to remain engaged with the Bretton Woods Institutions and I am pleased that of late the engagement has

been conducted with frankness and in a constructive and cordial manner.

Accordingly, in October 2013, the Government of Zimbabwe launched Zim-Asset, an economic blueprint, whose vision is **“Towards an Empowered Society and a Growing Economy.”** The implementation of Zim-Asset is guided by the need **“to provide an enabling environment for sustainable economic empowerment and social transformation to the people of Zimbabwe.”**

Zim-Asset is anchored on four priority clusters: food security and nutrition; social services and poverty eradication; infrastructure and utilities; and value-addition and beneficiation. The central objective of this blueprint is to “achieve sustainable development and social equity anchored in indigenization

empowerment and employment creation, based on natural and human resources.” This is one of the many initiatives that the Government has expressed its political will towards fixing the economy.

The Government of Zimbabwe is very alive to the fact that systematic engagement with all nations will be key to unlocking funding and winding down the tight liquidity currently being experienced in the country.

While other economies in Africa and across the globe have experienced record, remarkable and rapid economic growth due to their access to international capital, investment and markets, Zimbabwe has remained largely closed due to sanctions and such related consequences that have impacted negatively and exacerbated the country’s socio-economic malaise.

In this regard, the Zimbabwe government is putting in place a flexible policy framework that attracts investment while at the same time

ensuring that the people of Zimbabwe also benefit, hence the indigenisation and empowerment policies. What do these terms “indigenization and economic empowerment” mean? The President of the Republic of Zimbabwe, Cde Robert Mugabe, was explicit in both outlining the policy on

indigenization and dispelling whatever confusion has plagued this important pillar of Zimbabwe’s economic policy, firstly on the occasion of the commemoration of or 34th Independence and also on the occasion of the opening of the 55th edition of the Zimbabwe International Trade Fair on 26 April 2014:

“As originally set out, it is meant to empower and integrate the majority of our people into the mainstream economy. The policy aims at achieving inclusive growth, sustainable

...it is meant to empower and integrate the majority of our people into the mainstream economy. The policy aims at achieving inclusive growth, sustainable development and social equity. There is not expropriation or nationalisation of shares held by non-indigenous persons in companies...

development and social equity. There is not expropriation or nationalisation of shares held by non-indigenous persons in companies, as some of our detractors would want the world to believe. Rather, any equity that an indigenous person takes up will be disposed of at fair value. With this clarification, let me take this opportunity to invite potential investors to come and do business in Zimbabwe in which there is huge potential for joint venture partnerships between investors, manufacturers, industrialists and the public sector. We want investment from abroad.”

On my part, and emphasizing the foregoing, I stated the following on 23 April 2014 and also at the National

Economic Consultative Forum held at the ZITF:

“We are not taking 51 percent of anyone’s money. There’s no one-size-fits-all. Zimbabwe will decide the threshold of how much local blacks should own in foreign companies on a sector-by-sector basis and over what timeline. Further the Investor has the power to choose the local partner and to determine the price. The government is quite comfortable with the injection of foreign capital in the banking industry because it will increase the volume of credit to the productive sector. Zimbabwe’s Indigenization Minister, Francis Nhema, will put proposals to the country’s cabinet for this sector by sector approach.”

With respect to investment, I wish to make the following five points;

- i. Government is doing everything to create a good business climate. This is why we have clarified the policy on indigenization and declared our invitation to foreign direct investment.
- ii. In this regard, government will seek to ensure that the Zimbabwe Investment Authority will have full authority to determine investment conditions as a One-Stop-Shop, and thereby approve foreign direct investment.
- iii. We are inviting investment in power generation, road and rail network, water and irrigation infrastructure and information technologies. The government will invite players through Build-Operate-Transfer (BOTs).
- iv. Government is committed to fighting corruption and we are already demonstrating that we are serious about it.
- v. Government is committed to assist in reforming and building the public service capacity, not least improvement in service delivery in all sectors, effective and quick decision-making, and the eradication of self-defeating red tape and corruption.

However, Government’s efforts and commitments towards re-engagement need to be reciprocated by the same efforts from the global community, by honestly re-engaging with Zimbabwe. The removal of sanctions, as the

Government has always maintained, is an important precondition to Zimbabwe’s re-engagement with the global community. Furthermore, the removal of sanctions will also constitute

a critical step in Zimbabwe's efforts towards economic growth and stability. I have perused with interest the programme of this conference and commend Sapes Trust and their Sponsors for involving a cross-section of the global community; the Fishmongers Group of Embassies represented in Zimbabwe, particularly the USA and Britain, and also the BRICS countries and our own African constituency such as the Ambassadors from the African Union, COMESA and SADC.

We await your response and advice as regards our stated objectives on the economic policy front; and a resolute stand on the issue of sanctions which, to be fair, must be declared inconsistent with, and inherent constraint on Zimbabwe's economic recovery and re-entry into the global economy.

Government, civil society, the labour movement, the global community and the business sector are partners who should have a common understanding of the challenges we face as a nation, a common understanding of how to address these challenges and, most importantly, a common vision for Zimbabwe's future. In short Zimbabwe is open for Foreign Direct Investment (FDI) from all Nations of the World, whether these be in the North, South, East or West. The business Partnerships

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we forge must be without preconditions. FDI will hopefully bring into our country capital, technology and the much needed managerial skills. On our part, we offer a diversified resource base, a good climate, a readily available educated and enlightened human capital and the warm hearts of our people. Let the message go out loud and clear that Zimbabwe is ready to re-integrate into the global economy. Zimbabwe is looking for new friendships, new opportunities while consolidating old ones. We are looking

for mutually beneficial economic relationships not confrontation. We are too small a country to pursue a policy of confrontation.

Sanctions are one of many strategies in a policy of confrontation. Sanctions dignify what is termed in military terms low intensity warfare.

Again, I compliment the Sapes Trust and their

Sponsors for this grand initiative, a contribution whose initial results in such process is surely this conference, one which coincides with Zimbabwe's economic renaissance, an indigenous journey, the long road from political emancipation to economic liberation.

With these words, I hereby declare this conference open, and wish you fruitful deliberations.

DAY ONE - MONDAY 5 MAY 2014

ENABLING ENVIRONMENT: CONSOLIDATING CONSTITUTIONAL REFORMS AND STRENGTHENING NATIONAL INSTITUTIONS

SESSION I: CONSOLIDATING CONSTITUTIONAL REFORMS

Moderator: Dr Alex Magaisa Former Advisor COPAC

The establishment of the new constitution in March 2013 was a defining moment in the political history of Zimbabwe. There is need to expedite the implementation of the constitution and to promote constitutionalism. Having a constitution in place is a fundamental step towards democratisation, but not an end in itself. 'A bird that flies from the ground onto an anthill, does not know that it is still on the ground.'

Fortune Chasi – Deputy Minister Justice, Legal and Parliamentary Affairs

The SAPES international conference is an important platform in the history of Zimbabwe, providing an opportunity for exchange on the way forward of our country and an important step rebuilding trust. We have travelled a long journey and have arrived where we are as a result of collaborative engagement. A surge of mistrust has been building up since the constitution making process, and this may be the apt time to tackle it. The constitution has all

hallmarks of democratic institutions but on its own does not guarantee democracy for the country. Likening it to a marital situation where the presence of a marriage certificate doesn't guarantee sustainability and marital bliss, the minister emphasized on the need for mutual accountability, commitment and fidelity between both parties.

The Zimbabwean history has been that of struggle for democracy. The Lancaster constitution was imposed on the people of Zimbabwe, however our constitution is evidence of the collaboration among all stakeholders to the national development of the country. Democracy doesn't have finite boundaries. Through the peaceful elections in 2013, the democratic

path was consolidated. Our struggles as Zimbabweans recognise the need to entrench democracy and rule of law and we commit ourselves to building a united nation underpinned by values of honesty, transparency, and accountability.

It is important that we mean what we say as a people and that we engage in a forthright manner. Success and failure will depend on the will power of all stakeholders. People in positions of authority should be prepared to give quality leadership as has been seen

...it is important that we mean what we say as a people and that we engage in a forthright manner. Success and failure will depend on the will power of all stakeholders. People in positions of authority should be prepared to give quality leadership as has been seen during the electioneering process...

during the electioneering process. Minister Chinamasa is a re-engagement incarnate and has been going around in a re-engagement process. But the re-engagement has to be home grown, locally owned and driven. This will not be without challenges, as are still grappling with of, for example, corruption, suspicions among main political parties, state of the media law etc. they all need to be tackled if we are to be successful in the democratisation agenda. We also need to establish electoral reform frameworks which are gateways to democracy, working in close collaboration with NGOs and civil society. The government has an open door approach to all stakeholders in order to establish common ground to ensure that we forge ahead the nation of Zimbabwe.

DZIMBABWE CHIMBGA – ZIMBABWE LAWYERS OF HUMAN RIGHTS

The 22nd of May 2013 was one of the most defining moments in Zimbabwe when we signed the new constitution into law. It was a jubilant moment for the nation where for the first time in the history of Zimbabwe, we had our own home-grown constitution. After signing it president Mugabe celebrated the birth of our national identity, a constitution that mirrored the needs and expectations of all Zimbabweans and one that enables us to take pride in the ability to define our destinies. The constitution equalises us all, no one can claim greater superiority above others. Despite diverse backgrounds and diverge opinions, we have all come together to establish our commonality through the Zimbabwe born constitution. We now need to live the

constitution and typically enshrine it in the bill of rights and protect people. The need to underpin values, fairness, justice, and equality cannot be overestimated. On its own, the constitution becomes just a paper, hence the need to consolidate the constitutional reforms. There are five primary stakeholders in this process, who include: civil society actors, executive, legislature and judiciary.

The executives are the policy drivers and hence need to adapt and promote the culture of constitutionalism. For example on press freedom day when protesters were barred from expressing their opinions, there should have been a consistent and robust response, that is enshrined in the constitution provisions. On the other hand, the legislature has not done much since the promulgation of the constitution apart from a bill.

The judiciary plays a significant role in the process of constitutionalism. The inclusion of socio economic rights has provided a judiciary leg to stand on in any violations as has been evidenced by the past week's events. The judiciary took a robust approach in challenging violations of such. A high court judge was reported as having denounced the turning off of water on the grounds of its unconstitutionality.

The civil society have a variety of roles and need to work as technical partners with government and ensure that there is mutual accountability with government, underpinned by mutual trust. Trust is the glue that holds it all together and makes it sustainable. The

constitution is a piece of paper, but the way forward is its systematic and transparent implementation.

DEREK MATYSZAK – RESEARCH AND ADVOCACY UNIT

Constitutionality in Zimbabwe needs to be viewed against an important aspect of President Mugabe's style of governance. Successive administrations under President Mugabe have tended to regard executive power as plenary, in other words, that government officials may do whatever they deem necessary to govern, unless constrained by legislation. For this reason, in addition to the Constitution, general statutes are frequently regarded by President Mugabe and his administration as restricting executive power, rather than, as is usual in a constitutional democracy, enabling and authorising its use. President Mugabe has little tolerance for any constraints placed upon his executive power, and few have been. However, under the Constitution, establishing the Inclusive Government (2009 - 2013) and the new Constitution (which became law on 22nd May, 2013) Mugabe's powers were marginally restricted. President Mugabe's response to these constraints has been to simply ignore them.

The examples which follow are but a few of the many possible:

a) Prime Minister's consent ignored: In terms of the Constitution establishing the inclusive government, the President's extensive powers remained intact except for two important limitations. One was that all key appointments in terms of the then Constitution, and under any statute, had

to been made with the consent of the Prime Minister first obtained. This provision was repeatedly ignored.

Secondly, the Inclusive Government Constitution fettered President Mugabe's power to appoint Ministers. The number of Ministers he could appoint was set at 31. The establishment of the Ministries appeared in Article 20.1.6 of Schedule 8 of the Constitution of the Inclusive Government, which was as follows:

There shall be thirty-one (31) Ministers, with fifteen (15) nominated by ZANU PF, thirteen (13) by MDC-T and three (3) by MDC-M

On the 13th February, 2009, President Mugabe purported to swear into office 35 Ministers and, on the 19th February, 2009, a further six Ministers, bringing the total to 41, ten more than were permitted by the Constitution, and agreed in the GPA. As such, the appointments of these ten additional Ministers were unconstitutional, unlawful, and void – a literal case of executive excess. Which Ministers were unconstitutionally in office depended upon the order of the swearing-in: once the quota of 15 ZANU PF nominees was reached, the purported assumption of office by any ZANU PF nominee thereafter was unconstitutional. The same considerations applied once the quota of 13 MDC-T and 3 MDC-M Ministers had been reached. Ministers are required to both take and subscribe to oaths of loyalty and of office. While they all took the verbal oaths simultaneously on the date of their

swearing in, the process was not completed until they had subscribed in writing to these oaths. The ten that did so after the quotas had been reached were not constitutionally appointed as Ministers. Of the ten, three were MDC-T nominees, one an MDC-M nominee and six ZANU PF nominees.

It was not open to ZANU PF and the MDC formations to argue that they had an agreement amongst themselves to provide for the increased number of Ministers. As part of the law of Zimbabwe, the number of Ministers was set by Schedule 8 to the Constitution and not by any inter-party agreement. Any alteration to the Schedule required a constitutional amendment.

The issue was brought before the High Court by a concerned governance NGO and an individual taxpayer. In a legally questionable ruling the Judge President, George Chiweshe, held that the “*anomalous*” appointments did not “*outrageously exceed*” the number provided for by the Constitution, and, that if they were set aside:

“... it would destabilize the government of national unity and cause unnecessary confusion within the body politic and prejudice the public interest at large. That cannot be said to be consistent with the intention of the legislature in enacting Schedule 8 to the Constitution.”

The obvious flaw in this “reasoning”, apparent even to lay persons, is that (even if this kind of approach were jurisprudentially permissible, which it is

not) if the intention of the legislature was to create stability, as Chiweshe JP simply declared was so, it had determined that this was to be accomplished with and by an establishment of 31 Ministers, and not 41.

Justice Chiweshe’s ruling came only weeks after a judgment given by the Supreme Court in an analogous matter which did set aside the appointment of an official, the Speaker of Parliament. The Supreme Court had ruled that election of the Speaker of Parliament was invalid as the Standing Orders of Parliament, as read with the Constitution, required that Parliament “*shall conduct the election of the Speaker by a secret ballot.*” The Chief Justice stated that “*the golden rule of interpretation is that one has to give the words of a statute their primary meaning*”. Accordingly, the word “*shall*” had to be read as meaning precisely that. The use of the word “*shall*”, his honour ruled, rendered the use of a secret ballot peremptory. The matter would be different, he stated, if the word “*may*” had been used. The failure to comply with the peremptory requirement of secrecy rendered the election of the Speaker and thus his appointment invalid. The “explicit” language of the statute allowed no variation, the court ruled. Justice Chiweshe, contrary to this ruling of Supreme Court, felt the peremptory and explicit language requiring that there *shall* be 31 Ministers, no more and no less, could in fact be varied.

Justice Chiweshe’s judgement was appealed and argued on 10th July 2012.

Neither Counsel for the State nor the Supreme Court seemed to find any merit in the Justice Chiweshe's ruling in the High Court. His "reasoning" was not referred to by either. However, during the hearing the Chief Justice, Godfrey Chidyausiku, displayed considerable discomfort at the prospect of having to declare that certain Ministers had been unconstitutionally appointed by Mugabe. He suggested to Counsel for the Appellants that perhaps it would suffice merely to order the reduction of the number of Ministers to 31, leaving it to Mugabe to select who these should be. This approach would overlook the initial unlawfulness of the appointments. The Chief Justice then surprised some of those observing proceedings by descending in to the arena and suggesting to the Counsel for the State that he might want to consider whether there was some procedural defect in the appeal, thus rescuing him from having to rule on the substance of the matter. The Chief Justice, for example, suggested to State Counsel that perhaps ZANU PF should have been cited as a party in the application. The hapless Counsel could not, however, find any argument to lend support to this and other similar suggestions from the bench.

Neither the erstwhile enthusiasm for compliance with the explicit language of the Constitution and the nullity which accompanies any failure in this regard, nor the assurance displayed in setting aside the appointment of the Speaker of Parliament, was evident when called upon to set aside the appointment of the extra Ministers. What did the Chidyausiku Court thus do in the face of

the "explicit" language of the Constitution, which seemed to "allow no variation" to the quota of 31 Ministers? Unable to immediately see any basis upon which the case could be dismissed on procedural grounds, the Court has simply not ruled on the matter. Two years have gone by, the Inclusive Government has ended, and the unlawfully appointed Ministers have completed their full tenure without any judgment issued. This instance of unconstitutional executive excess has thus effectively been allowed to pass by the Courts. The matter is not, however, now merely academic. Regulations were introduced by some of the invalidly appointed Ministers, rendering the validity of these regulations themselves suspect. Most notable amongst these are the Indigenisation and Economic Empowerment (General) Regulations 21 of 2010, a key component of government policy, made by Saviour Kasukuwere.

Fast forward to the introduction of a new Constitution for Zimbabwe on 22nd May 2013, and we see little change in the modus operandi of the Mugabe administration in regard to constitutionalism. Due to political considerations, the new Constitution became law very shortly after it had been agreed. Inadequate time was left to prepare for the establishment of various commissions and institutions required by the new charter, or for the amendment of numerous pieces of legislation to bring them into line with the constitution. The result was a plethora of constitutional violations the moment the new constitution became effective.

But, in addition to these passive violations of the supreme law of the law, there have been active violations of the Constitution by the President, seemingly simply because he and his Administration do not like the certain provisions thrust upon them by the negotiating process that led to drafting of the document.

Two examples will suffice to illustrate the point: firstly, the use of the Presidential Powers (Temporary Measures) Act. This Act granted the President sweeping powers to make law by way of presidential regulation. Laws made in this way overrode the provisions of any Act of Parliament to the contrary. However, a part of the new Constitution pertaining to elections which became effective on the 22nd May, 2013 provides that elections must be conducted under an “*Act of Parliament*”, not Presidential Regulations. An “*Act of Parliament*” is specifically defined in the Constitution as a Bill which has been presented to and passed by Parliament, and assented to and signed by the President. Regulations made under the Presidential Powers (Temporary Measures) Act do not fall within this definition. Notwithstanding this clear provision, the elections were conducted under provisions introduced by Mugabe in the form of the Presidential Powers (Temporary Measures) (Amendment of Electoral Act) Regulations. This use of the Presidential Powers (Temporary Measures) Act was challenged in the Constitutional Court in four election related cases. Nearly a year after the

cases were brought, the Court has yet to give a judgment on the point.

Once the new Constitution became fully effective, the use of the Presidential Powers (Temporary Measures) Act in any manner at all became unconstitutional. Section 134 proscribes the ability of Parliament to delegate its “primary law-making function” allowing only the delegation of the power to make statutory instruments by way of an Act of Parliament which “*must specify the limits of the power, the nature and scope of the statutory instrument that may be made and the principles and standards applicable to the statutory instrument.*” Such legislation is referred to in the Constitution as “subsidiary legislation”. The Presidential Powers (Temporary Measures) Act clearly conferred primary law making powers upon the President, allowing the President to make Regulations which “*may provide for any matter or thing for which Parliament can make provision in an Act*”.

Given that any laws made under this legislation prevailed over any Act of Parliament to the contrary, notwithstanding the fact that they could be revoked by Parliament, or lapsed after six months if not approved by Parliament, they could hardly be described as subsidiary legislation - the only category of law making power that the Constitution now allows to be delegated. Furthermore, since the Presidential Powers (Temporary Measures) Act conferred a general and primary law making power, it did not specify the limit of the power, nature and scope of each instrument to be

made under the Act. It is likely that this section was introduced into the new Constitution precisely with the intention of rendering the Presidential Powers (Temporary Measures) Act unconstitutional. Although the Presidential Powers (Temporary Measures) Act is only supposed to be used in cases of urgency when exigencies prevent the passage of necessary legislation through Parliament, this requirement has often been ignored, and the Act deployed on numerous occasions.

The Mugabe Administration found the Act a means to introduce legislation without the inconvenience of approaching Parliament and became heavily reliant upon it. Accordingly, section 134 of the Constitution has been treated by the new government as having no impact upon the Presidential Powers (Temporary Measures) Act. Mugabe has continued to legislate using its provisions. In January 2014, the President purported to bring three sets of Regulations into law – The Presidential Powers (Temporary Measures) (Amendment of Money Laundering and Proceeds of Crime Act) Regulations; The Presidential Powers (Temporary Measures) (Amendment of Criminal Law (Codification and Reform Act) Regulations; and Presidential Powers (Temporary Measures) (Trafficking in Persons Act) Regulations. This is all primary law, not subsidiary legislation.

The second aspect of the new Constitution of concern, for present purposes, is that pertaining to devolution. During the negotiation

process ZANU PF made it clear that it wished to retain the powerful control of central government over local government and rural administration. Other than in the metropolitan provinces, a key component of this control had been exercised previously by Provincial Governors appointed in terms of the Provincial Councils and Administration Act for two year terms of office. The importance of this means of control to President Mugabe is reflected in the fact that, when Provincial Governors' terms of office expired during the course of the Inclusive Government, he proceeded to appoint party stalwarts into these posts in blatant violation of the then provisions of the Constitution and in violation of a reported understanding that these ten posts would be apportioned to the parties in an agreed ratio. These Provincial Governors exercised a power in the provinces far beyond that contemplated by Provincial Councils and Administration Act, including chairing all Provincial Lands Committees which play an often determining role in the allocation of land within the Province.

One such Provincial Governor was Martin Dinha. In late 2012, Dinha in his capacity as Provincial Governor for Mashonaland Central and Chairman of the Lands Committee for the province was able to help the First lady, Grace Mugabe acquire more land for the advancement of her philanthropic projects in Mazowe, which apparently have been much admired by visiting dignitaries.

The new Constitution abolished the posts of Provincial Governors. Instead of

local government in the provinces conducted through appointees of the President, Provincial Councils ought to be established. Rather than being headed by appointees of central government, the Councils are to be headed by Provincial Chairpersons, elected by the Councils themselves from lists of two people submitted by the National Assembly members with the majority in the province.

These provisions in the new Constitution have been ignored by Mugabe and his Administration. The new Constitution requires that *“an Act of Parliament must make provision ... for the establishment and functions of Provincial Councils”* No such enabling Act has been passed or even seems to form part of the immediate agenda for the Eighth Parliament. There is no apparent allocation for the operations of the Provincial Councils in the budget for 2014.

Furthermore, in direct conflict with the principles of devolution set out in the Constitution, Mugabe has appointed ten Ministers of State for Provincial Affairs. These Ministers are essentially Provincial Governors in all but name, and have seamlessly continued with the same activities and functions carried out by Provincial Governors. But they do so without any legislation which confers such power, and have simply arrogated to themselves the authority they hold is necessary to exercise whatever power they deem appropriate to their position.

That the clear intention of the Constitution in regard to devolution has been circumvented is starkly illustrated

in the fact that many of the people appointed as Ministers of State for Provincial Affairs by Mugabe were in fact the Provincial Governors of their respective provinces before the abolition of these posts, thus effectively continuing in their offices with their work under different titles, with no devolution of governance having taken place. One such person appointed as Minister of State for Provincial Affairs for Mashonaland Central by President Mugabe is Martin Dinha. Martin Dinha was thus conveniently on hand to be helpful (as he had been when Provincial Governor) once more when Mrs Mugabe once more required more land in the Province.

President Mugabe has declared zero tolerance for corruption, regardless of the quarter from which it emanates. This and other considerations mean that there is no absolutely no suggestion here of any impropriety in this transaction. Mr Dinha has clearly stated Mrs Mugabe’s *“request for more land was justified considering the great work she was carrying out.”* What is suggested, however, is that the totality of the circumstances is unlikely to result in favorable comment in the reports of risk assessors detailing the investment climate in Zimbabwe.

The few examples given here are merely a small corner of a larger picture showing a disregard for the principles of constitutionality and the rule of law by Zimbabwe’s policy makers. Yet this aspect of Zimbabwe’s policy is extremely important when assessing Zimbabwe’s investment climate. When to this governance style is added the

fact that successive Mugabe Administrations have a long track record making policy decisions oblivious, and seemingly unconcerned about their economic impact, it is likely that in order to attract investment to Zimbabwe more will be needed than nebulous statements that “Zimbabwe is open for business”. What is required is a somewhat cathartic event which signals, to those wishing to engage with Zimbabwe, a clean break with the past. I leave it to the imagination of others the nature of such an event.

ERIC MATINENGA – ADVOCATE AND LAW AND FORMER MINISTER OF CONSTITUTIONAL AFFAIRS

Zimbabwe became independent in 1980 and adopted a constitution which had been negotiated at Lancaster house. Like many countries in the region, Zimbabwe, soon amended the negotiated independence constitution. Unfortunately, the majority of the amendments were not for the better but for the worse. There was a general shift to monolithic executive governments chaired by an all-powerful president. The emphasis on governance shifted from people rights to nation or sovereign rights. People were told that western concepts of democracy did not work in Africa and that there was, therefore, need to search for an ‘African democracy’.

However ‘African Democracy’ came to be synonymous with the tyranny. Instead what emerged is what Willy Mutunga (now the Honourable Chief Justice of Kenya) in constitutional making from the middle: **Civil Society and Transitional Politics in Kenya,**

1992-1997 Describes a ‘Big man’ government terms: ‘His face is on money. His photograph hangs in every office in his realm. His ministers wear gold pins with tiny photographs of him on the labels of their pinstriped tailored suits. He names streets, football stadiums, hospitals and universities after himself. He carries a silver inlaid ivory rungu or an ornately carved walking stick or a flywhisk or chiefly stool. He insists on being called doctor or being the big elephant or the number one peasant or nice old man or the national miracle or the most popular leader in the world. His every pronouncement is reported on the first page he shuffles ministers without warning, paralysing policy decisions as he undercuts pretenders to his throne. He scapegoats minorities to shore up popular support. He bans all political parties except the one he controls. He rigs elections. He emasculates the courts and he cows the press. He stifles academia. He goes to church. The Big Man’s off-the –cut remarks have the power of law. He demands thunderous applause from the legislature when ordering far-reaching changes in the constitution. He blesses his home region with highways, schools, hospitals, housing projects, irrigation schemes and a presidential mansion. He packs the civil service with this tribesmen... his enemies are harassed by youth wingers from the ruling party. His enemies are detained or exiled, humiliated, tortured or killed’

To a large extent, the ‘Big Man’ led to the agitation for a new constitution in Zimbabwe. Various attempts were made in writing a new constitution for

Zimbabwe. Finally and arising out of the Global Political Agreement of 15th September 2008, the three main political parties, agreed amongst others, to write a new constitution for Zimbabwe. The process was long and arduous but finally, a new constitution was signed by the president on 22nd may 2013.

In steering the constitution the new constitution bill through parliament, I remarked as follows:

However, having a good constitution on its own is not sufficient. It is of paramount importance that we respect the constitution and the laws made in terms thereof. We need to develop a culture of constitutionalism. As always said, good constitution does not, of its own, deliver an election free from violence.

I made specific reference to violence free election as the conduct of our election since independence have been violent and the results from heavily contested. Such has been the violent nature of our election petition, **Makamure v Mutongwizo & Ors** 1998 (2) ZLR (H) 154 at 155 drew an analogy to a violent British election in 1874 in Wolverhampton, which was as follows:

‘blood flowed freely and they were terribly kicked, one so shocking about the head and face that his life is in much jeopardy- so soon as the roughs were able they got back to the rail stations were the profuse flow of blood has left painful evidence of the extent of the most injured have sustained. The victorious mob then paraded the streets; smashing windows of three

public houses were the landlords are Tories and similarly attacked the residents of the Chairman of the Conversation Party’.

Having quoted the above passage, the learned judge proceeded to question whether we had, in Zimbabwe, mechanisms to enforce electoral morality. One could question whether we have mechanisms to enforce morality in our various and varied schemes of life. Yes, the constitution and the laws made in terms thereto is a good starting point but a change in culture and/ or morals go beyond law.

Five aspects of the constitution will be instrumental in consolidating the constitutionalisation process:

- **The Preamble** in lofty words indeed sets out who we are, where we came from and where we are heading. A most significant point of the preamble is that it subtly addresses our history, the issues we cherish as a nation which we re-establish in the constitution making process and the contents which followed. The process of constitution making which identified the lofty ideas set out gives what follows in the document its legitimacy. The preamble encompasses both the morality and the law which we aspire to.
- **The Bill of Rights:** The jury is still out on the application of socio-economic rights. It is important to note that the new constitution, section 85, provides a more open and liberal approach to a court for the enforcement of breaches of fundamental rights. It is interesting

to note that in 2009, a section on political rights, section 23A, was introduced in the old constitution. The section has been reintroduced, with positive modifications, in section 67 of the new constitution.

- **Term Limits: Zimbabwe** has had one president since the introduction of an executive President in the mid-1980s. The introduction of a two five year term limit is certainly to address the 'Big Man' syndrome .The two five year term limit is complemented by; a) Fifteen year term limit for a Constitution Court judge , b) Two five year term limits for a permanent secretary, c) Two five year term limit for a service chief.
- **Devolution of Power: Section 5** of the constitution provides for three tiers of government. The structures of provincial and local governance are fully set out in Chapter 14 of the constitution. Unfortunately, more than a year into the new constitution, the operationalisation of provincial and local governance structures has not been addressed. Indeed, the President has appointed Ministers responsible for the provinces, a relic of governors of the

old older. This is most unfortunate. It is hoped that government addresses this critical and essential element of the constitution with the urgency it deserves.

Conclusion. Whilst the nature of the constitution one has, determines the nature of democracy one enjoys under that constitution, the key determinants are people and the executive who give effect to that constitution. In essence, any practitioner working under any constitution needs to accept that their personal views, desires, wishes, are subordinate to the constitution. It is not about what one says or wants but it is about what the constitution says. The values set out in our constitution demand that nobody can conduct themselves illegally and with impunity. It directs that the executive will respect the constitution and the court judgement arising there from no matter how detestable the rulings are. This is what constitutionalism is all about. This is how we can consolidate what has been provided for in our constitution and, consequently, reintegrate ourselves in the international community of nations.

Questions/Comments

- How do we go beyond the deficiencies that arose from the GPA?
- Is there an action plan in prioritising election reform?
- Limited participation by women in the panel discussions is detrimental to the re-engagement and democratisation agenda. Women are key agents of change and hence should be involved in issues of strategic importance to the nation building process.
- What has slowed down implementation of the constitution?
- What aspects do you regret about the constitution?

SESSION II: STRENGTHENING NATIONAL INSTITUTIONS

MODERATOR KEITH JENNINGS – NATIONAL DEMOCRATIC INSTITUTE (NDI)

Of fundamental importance in nation building is safeguarding democratic participation and deliberate advancement of democratic values. It is upon the parliament that oversees the government and the judiciary. Sustainable development can only be achieved with democratic values and processes.

GORDEN MOYO – FORMER MINISTER OF PARASTATALS AND STATE ENTERPRISES

To understand the notion of state institutions it's important to understand the architecture of the state itself. Zimbabwe was a colonial state, whose architecture was centred on the elite and the bourgeoisie. We inherited that colonial state without any transformation or shift in political culture. Hence we operate under a mirror image of a colonial state in terms of the, behaviour, form, character etc. Unfortunately public confidence has been atrociously eroded and people have lost ownership in state enterprises. Public trust is zero in normative terms because of the accumulation of wealth, at the expense of the masses, by state managers. Zimbabweans cannot have trust in state which accumulates wealth at their expense. This has had a cascading effect on the reception and perceptions around the newly established constitution, as there is now

loss of public value that is attached to many of our constitution.

At the core of the problem is, unaccountable governance, where leadership is corrupt and the architects of corruption also accuse others of corruption. The moral fibre has diminished over the years and has affected the integrity of state institutions. There is a dire and urgent need for renewal and radicalisation of state institutions, underpinned by the values as in chapter 9 of the constitution. Value systems must be established and entrenched in all dealings and people of Zimbabwe should engage in debate around the implementation of the constitution. Unfortunately the people who were driving constitutional reform are no longer in the driving seat of constitutional reform and those who resisted change are the ones tasked with the mandate to implement. It is a political tragedy of our time and calls for the institutionalisation of our collective value systems. Zimbabwe now needs a new breed of leadership, one that respects, upholds, defends and promotes these values. Now is the time for multilevel accountability – vertical, lateral and societal accountability complemented by the renewal of state institutions and provision of public goods.

DUMISO DABENGWA – ZIMBABWE AFRICAN PEOPLE'S UNION (ZAPU)

The theme of this conference may need some refining. Do we need strengthening of national institutions or rather reorientation? Strength is not

synonymous to clarity of purpose. While strong institutions are important, we should seek to have values that protect and support democratisation. In my time as government minister I took time to reorient state institutions, in an intensely challenging landscape, where institutions were hugely politicised making it intensely difficult to get things done without political interference and resistance by political loyalists. Despite these challenges I managed to push for reform in the police force. For example, the shift from police force to police service was a landmark achievement which revolutionised the culture in the industry. Making a police service, meant that the power barrier between the police officials and the general public was dismantled. It also meant that we were providing a deserved service to the people, as opposed to being an autocratic, all-powerful institution. In this, the biggest lesson learnt was the need for changing institutions in order to deliver positive public goods.

Democratisation provides with a lifeline to re-engagement. In 2014 we have witnessed the manifestations of institutional decay in the parastals' scandal. While there was general appreciation of the exposure by the press, there remains widespread cynicism, based on the inability to address systemic corruption and the patent erosion of political oversight. When Dr Mandaza was in charge of the parastals, he was on top of salary details of each of the parastal chiefs. A lot of lessons can be learnt from the past.

We have made strides with the establishment of our constitution but a

lot more remains to be done by all. The country needs to address the issue of winner takes all and resort to proportional representation. Strengthening institutions should start with the restoration of values that built this country to being a prosperous and international emblem that it was. There is need for a coordinated internal review of the government and to tackle the unproductive competition within. Elected officials should be pressured to discharge their roles seriously and the public must engage legislators to go beyond raising issues. On the other hand, opposition and independent parties should play their roles in the political system. There must be predictability and consistency in decision-making. All people must have equal access to decision-making and contribute to policies that affect them. There is need for collective effort in championing democracy by all.

Zimbabwe must be a reliable partner to all they are working with locally and internationally. There must be a level playing field for all players and must demolish gatekeepers to the awarding of contracts. In order to ensure that institutions don't degenerate after being strengthened, it is paramount that constitution provisions are enforced and monitored and incumbents of the various offices adhere to principles of fairness.

IBBO MANDAZA – SOUTHERN AFRICAN POLITICAL ECONOMY SERIES (SAPES) TRUST

The purpose of this event is to reflect on the past, share experiences and lessons and also to acknowledge what has not

worked well. We are currently operating under a Bourgeoisie state model which was inherited from the colonial state model. We are clear that the Lancaster House constitution was conflated with the Rhodesia front. The concern was how to ensure that the new state would conform to the new model. We had none partisan state institutions

amendments to the Lancaster House constitution was to reaffirm the big man syndrome. We are restoring constitutionalism, how to restore and strengthen constitutionalism. The new constitution is it possible for us as Zimbabwe to at least to return to 1980 where we had non-partisan state institutions.

Questions/Comments

- What needs to be done in addressing peace and reconciliation?
- Why should we aim to strengthen already politicised institutions?
- How are we going to practically take away the regime?
- Militarisation of state institutions – the reporting structure of the military struggle was never dismantled. We don't have parastatals but party-statals. There is need for institutional framework governing the running of the parastatals.
- Need for a commission to set rules and regulation.
- The need for involvement of youth in leadership.
- Renewal of political parties is critical - political parties are crucial vehicles for national dialogue. But they have to be value driven not for personal wealth accumulation and personal advancement. There is need to review party constitution against national constitution and ensure that they are aligned. Cross party dialogue has commenced, in light of the contemporary political situation, particularly around the implementation of the new constitution.
- Role of diasporas - There is need to engage diaspora voices in the political processes, they constitute 30% of our professional people who have left the country to secure better livelihoods.
- Where do we situate privatisation? – State enterprise is needed by the state due to their social imperative, social security and can't be commercialised. We can't commercialise water, there are parastatals and enterprises that should still be government controlled, but some that should be commercialised.

SESSION III - THE ROLE OF CIVIL SOCIETY: FROM ADVOCACY TO ENGAGEMENT

**MODERATOR: RUDO GAIDZANWA
DEPARTMENT OF SOCIOLOGY,
UNIVERSITY OF ZIMBABWE**

JOY MABENGE - CRISIS COALITION ZIMBABWE

The opinions raised in this discussion do not reflect those of Crisis Coalition Zimbabwe.

The emergence of civil society in post colonial Zimbabwe dates back to the 1980s. The relationship between civil society and the state has evolved over the years and has been shaped by the political changes in the country i.e. pre and post Global Political Agreement. July 31 was a watershed moment both for the opposition parties and the civil society.

The Zimbabwean society has been compartmentalised into sub-political communities loyal to specific dominant political forces. Civil society has been perceived as an extension of political parties particularly MDC, in stark contrast to the more authentic, 'complementary and watchdog role'. Civil society organisations were called under the banner of political parties. This has left civil society deeply disenfranchised and in tatters. The way forward is to depoliticise civil society and to reintroduce the watchdog status of the civil society.

The Global Political Agreement never addressed the question of the economy.

While there was a binge mushrooming of mechanisms such as JOMIC, Copac etc there wasn't an economic mechanism under GPA. The new constitution was meant to carry forward the reform agenda. The July 31 outcome means that we are stuck in parliament with a symbolic opposition. There is a role for CSO in precipitating this and with a watchdog mandate in light of the weak opposition mechanisms. Civil society must reclaim the agenda setting responsibility as in the early 1990s.

Civil society has disconnected with the general citizenry, a recipe for regression and disenfranchisement. This was emphasized in the post July 31 scenario where citizenry where hugely demoralised and will further entrench if the civil society community does not wake up to that reality. Failure of which they will not gain traction on issues of national development without the back up and input of the general citizenry. It is paramount that civil society reengages downwards and also identifies strategic entry points. The state cannot and should not self-monitor, the need for CSO to play its part cannot be overemphasized. They should guard against regression and fatigue.

All CSOs engagements should be underpinned by fundamental principles and value systems that retain autonomy and uphold democracy. There is space for independent and authentic civil society to participate.

**CHARLES MANGONGERA –
INDEPENDENT ANALYST**

This is a rare space for debating and deliberating on issues that pertain to national development and democratisation. National economy is in a bad state, poverty is deepening, thousands of people loosing employment, private businesses closing up etc. Yet there hasn't been efforts to foster national dialogue of this nature. Where it is has been done, it has been to further political interests, CS is also guilty of disengagement.

There has not been broader engagement on the ZimAsset, the government's economic blueprint, to ensure that there is understanding and ownership at all levels. There is a difference between a constitution and a culture of constitutionalisation that fosters effective behavioural change in the political system. Civil society has a role to play in the reform agenda. Unfortunately some have lost their impartiality in the recent years, as the country navigated through its political storms. There was an emergence of parallel structures leading to polarisation of our society.

There is need for a separation between political mechanisms and NGOs who should be promoting governance and monitoring government processes. The media has recently been highlighting some of the untold salary scandals in our country's history, highlighting the absence of the watchdog role of CSOs and political parties. The emergency of prosperity gospel aims to fill the gap left out by CSOs.

The role of diasporas and how they can be mobilised to make meaningful contributions towards national development cannot be emphasized enough.

Engagement does not mean one is abandoning the reform agenda, the constitution still needs to be implemented. We need to prioritise media reforms, in particular, de-politicisation of media, strengthening the role of community radio stations etc. CSOs have the responsibility and a key role in engaging with regional mechanisms such as SADC and AU.

**WELLINGTON ZINDOVE – YOUTH
FORUM ZIMBABWE**

The process of re-engagement comes at a cost in the post GNU era. ZANU has more than two-thirds majority in government, hence we cannot do things the same way. We need to identify effective approaches to both, engage the new political regime and to re-engage domestically.

CSOs lack a unified approach in tackling the challenges currently ravaging Zimbabwe and in engaging the global community. There is need for dialogue to build consensus on the issues of national interest and democratic progression of our country. The re-engagement process needs to begin with consensus building. Currently CSOs face an identity and credibility crisis and state actors hesitate to engage with CSOs due to the opposition tag. This has weakened civil society engagement with regional and international mechanisms.

There is need for a strategic approach in engaging ZANU PF as they control state processes and structures. ZimAsset is an

important entry point in fostering a spirit of accountability and transparency.

Questions/Comments

- What exactly is the role of civil society?
- What is the opportunity for civil society?
- How do we define civil society?
- The GPA had positive outcomes but the current government hasn't made sufficient efforts to take development further than July 31.
- The government is committed to engaging with civil society and involved them in the constitution making process.
- What can be done about civil society fatigue?
- Do we believe that democratisation is taking place?
- CS shouldn't be ashamed to be connected to political parties

SESSION IV – EXAMINING THE ROLE OF THE MEDIA IN A DEMOCRACY

MODERATOR - MARK NELSON, CENTER FOR INTERNATIONAL MEDIA ASSISTANCE (CIMA)

PANELLISTS;
MICHAEL CHIDEME - ZUJ
VINCE MUSEWE – MEDIA ANALYST;
ANDREW MOYSE – MMPZ,
SEKAI NZENZA – COLUMNIST

This panel used a question and answer format. To make for easy reporting, the key issues from this session are captured in bullet points.

Key Issues discussed:

- The media can be a key player in promoting good governance and democracy.
- Unfortunately there has not been a separation between the media and politics.
- Most elements of the media are either linked to political parties, or owned/supported/sponsored by specific political party loyalists.
- Media tends to take a partisan stance, lacks deep and critical analysis of information.
- Media is not playing its full role because of the ownership structure of the media houses
- State intimidation, threats of closure for perceived government opponents prevent innovation and stops the media from delving into sensitive areas of the state. Media houses are

self- censoring themselves due to fear of retribution.

- Is the fear of retribution still contextualised? Does retribution really happen to vocal members of the media? Some of us have been forthright with our opinions, speaking out against poor and accountable governance, with no ramifications.
- We inherited a system where we have a centralised power and we don't have a culture of questioning authority. Unlike in the developed world where media is investigative and question the status quo.
- Media monopoly is crippling innovation. Zimbabwean media has never been free, ZBC monopoly is a real challenge.
- There is a state of media paralysis since independence, the democratic space has been largely closed up for media to exercise full freedom.
- There some notable media malpractices i.e. licenses are being granted before there is any reform of the broadcasting sector.
- The processes aren't transparent , there is need to reform the laws.
- There are some real barriers and stereotypes that prevent certain media actors from accessing vital information. For example working for the Herald can turn off some people from engaging.

- There is need to expand information access to remote areas.
- Without political will to implement the constitutional provisions around media freedom of expression there won't be sea change in the state of the media.
- Need for democratic media laws that govern practice and control unfair and undemocratic use of power in the media.
- Media should push boundaries and speak out without fear.
- Need to reflect on the role of media in shaping the international image of the country.
- The state needs to realise that it is no longer possible to control the media but allow media freedom to shape democratisation process.
- The state- media relationship needs to be detoxified and needs to be upgraded to a complementary one where it is a primary indicator.

Questions/Comments

- Responsible reporting - media should not critique for the reader.
- Liberalise print media sector and be more stringent on the electronic media.
- Its dangerous to assume that the state is monolithic, its symptomatic of the discord in state institutions.
- The role of the media is to create space for dialogue and they need to be careful not to tar everyone with the same brush.
- Use of social media in the exchange of information needs to be promoted and strengthened.
- People don't have the capacity to interrogate what they read.
- The quality of journalism is poor and inconsistent.
- The culture of fear among journalists is a reality and needs state reassurance.
- Inclusion of sub communities – youth, disabled, in such fora so that they can articulate their own issues. There is need to engage the alternative voices
- It is difficult to engage without leverage.
- Media is a critical part to effect change and also to stall change. The conference has done well to integrate the issue of the media.

**SESSION V: REINFORCING ZIMBABWE'S
DEMOCRATISATION PROCESS: A
DIALOGUE TO REINFORCE
ENGAGEMENT**

**MODERATOR: IBBO MANDAIZA, SAPES
TRUST**

We have focused on bringing diverse voices through this conference to ensure that there is effective representation of a variety of perspectives. On this panel we have former finance ministers, EU and ambassadors who have been engaged in national discussions. The aim for tonight is to share practical approaches in strengthening democratisation and reinforcing national and international engagement.

**ALDO DELL'ARICCIA – EU DELEGATION
TO ZIMBABWE**

I am here tonight representing the European Union. The European Union is committed to engagement with Zimbabwe and we have been working in partnership with Zimbabwe in a number of ways. For example our trade with Zimbabwe is healthy. There is a market for Zimbabwean products in the EU. Also if EU did not have economic partnership agreement, Zimbabwean products such as sugar and tobacco would be subject to paying tax.

We are preparing a country cooperation strategy, the condition of public finance management is not mature. Our key focus areas will be governance among others. There won't be budgetary support to Zimbabwe.

We also work through the UN system to engage the Zimbabwe situation.

The EU is re-engaging with Zimbabwe, and it's important to state that we did not impose sanctions but restrictions. Currently the restrictions are against Mugabe, the first lady and the Zimbabwe Defence industry. We recently waived Mugabe's restriction so that he could attend a meeting in EU, yet the focus was on the ban on the first lady in attending. Of the companies under restrictions, Agribank was not there but companies linked to specific individuals.

European investment can only work with the private sector. We have promoted an engagement with the private sector, Zimbabwe private sector has engaged internationally presenting their views in order to attract FDI. The fact that investment banks owe debts to the EU is evidence of engagement.

We are committed to engagement with Zimbabwe while expecting to see some practical steps towards democratisation. We have witnessed some progress, a good constitution, more positive messages - Mugabe at Trade Fair, and Independence inviting investors to Zimbabwe, but haven't translated into much change. We have seen continuing EU, US bashing, Electoral promises that haven't been honoured and the burdens are on the shoulders of the government.

EU is not against land reform but land reform doesn't mean that you kill people as has been in the seizure of farms in Mazoe .EU is reengaging with

Zimbabwe, but its important to put the house in order. There is need to address issues of transparency, accountability and strengthen democratisation.

TENDAI BITI – MDC T

We are in the middle of an unprecedented crisis manifesting in multiple forms. The is crisis of democracy did not start in 1980, we have had two political leaders in the last 49 years. There is a democratic deficit in Zimbabwe.

We have witnessed an unprecedented economic downturn, and an uneven and unequal economy.90% of the tobacco we are producing is being exported. We need 12-15% growth rate but will not be able to realise these in the absence of beneficiation.

There are some systemic challenges in the political system which include; a conspicuous absence of leadership, polarised and internally divided ruling party, politicised state departments, crisis of governance, electoral crisis etc.

The emergence of the national tabloid paper HMetro is reflective of the moral decadence of the nation of Zimbabwe.

Proposed solutions:

- The need for a brand new paradigm – where the culture of intolerance, exclusion and unaccountable governance should be tackled. The winner takes- all approach should be banished.
- There is need for real and meaningful national dialogue.
- National healing and institutional reform is key. The liberation movement has to demilitarise itself

and desist from protecting the narrow interests of a few elite.

- We cant talk about politics without touching on the economy
- There has to be an acknowledgement of failure on the part of the ruling party, ZANU pf and to call for national dialogue.
- ZIMASSET hasn't been inclusive and consultative and there is need to engage all key stakeholders in its operationalisation.
- China isn't Zimbabwe's closest friend, they are a business country and focused on self interest
- Its time high time Zimbabwe had a second ZIMCORD, it urgently needs financial investment.
- Use minerals strategically, establish linkages in the private sector
- Competitiveness of our economy - bringing back the Zim dollar isn't the solution
- Finalise dialogue with IMF and EU around budgetary support.

MATTHEW NEUHAUS – AUSTRALIAN AMBASSADOR

Zimbabwe's history dating back to Rhodesia never knew democracy. There are many elements to a democratic society. In Australia we had frequent regimes change, ensuring injection of fresh ideas, that's how we keep our democracy fresh and vibrant. We tackle corruption upfront, here in Zimbabwe I have not seen any ministerial resignations due to corruption.

Australia has been engaged in Zimbabwe during independence and since 2008 when GPA gave us the space to engage. We took a strong stance

against the Smith regime. When I was appointed in this role in 2011, I made it my priority to engage with ZANU Pf and MDC and we have achieved significant progress in many of these. We are pleased to see that there was a change from 2008 While we have some disgruntlements about the electoral process 2013 there has been some significant improvements in the recent years.

Australia has had parliamentarians visit , sports officials visits – Australian cricket team, Zimbabwean ministers have also attended our conference and also some engagements through the Kimberly process.

Investing in Zimbabwe is like swimming in Zambezi between Crocodiles and Hippos.

You don't get new investors unless you're able to look after existing investors. The presence of red tape in business enterprises makes it difficult to conduct business in Zimbabwe. Zimbabwe is at the bottom of international ranking in tackling corruption, and business attractiveness. Ministers appear disempowered but however I congratulate Minister Mutsvangwa for his dedication to engaging international community and also Minister Chinamasa following his EU and US engagement meetings. He probably could have engaged donors following these meetings.

The Australian government has taken formidable steps to engage the government of Zimbabwe but we have not seen proactive steps by the GOAZ.It makes us wonder if Zimbabwe is serious

about engagement. Western elements are constantly denigrated in the state sponsored papers – the Herald. The government media denigration of the West does not show commitment towards engagement. We are ready to do more and engage. Your future is in your hands

**SIMBA MAKONI -
MAVAMBO.DAWN.KUSILE**

Reengagement with the global community assumes that the country disengaged from the global community and also that reengagement is necessary only with global community. It is critical that there is strengthening of domestic re-engagement. We remain deeply polarised as a nation, we can and should re-engage and not exclude/veto other key stakeholders.

The diaspora constituencies need to be engaged – they shouldn't also wait to be engaged but should position themselves to return. National recovery will be realised when we engage with Zimbabweans in various corners of the globe.

Leaders are detached from the realities of the people on the ground. There is need to demolish the culture of fear in the general public and foster public confidence in public systems.

With regards to international engagement, there have been significant acts of engagement and there has been growth in our engagements over the years. It is Important that government normalises its relationship with international community to ensure effective

engagement. The world has moved on while we have been focusing on our petty fights. We need the world, it does not need us. We need to make our first move towards reengagement.

This country should not be an aid recipient but at the forefront of global trade. With so much mineral wealth in Zimbabwe we should not be begging for budgetary support.

In as much as we face economic challenges we need to forge international relations where there is a fair and level playing field for participants.

CHRIS MUTSVANGWA – DEPUTY MINISTER OF FOREIGN AFFAIRS

The concerns raised by EU and Australian government will be taken back to government and the relevant authorities.

The last three weeks have demonstrated that maybe ZANU PF was right in defending the country. The polarisation and ineffectiveness of the opposition parties hasn't escaped our radar. We now need a definite paradigm

where there is an acceptance that ZANU is an indispensable player on the political playing field. ZANU PF is a key stakeholder in the economy and politics of Zimbabwe and has a lot to contribute to the future of Zimbabwe. As a member of the liberation movement I witnessed firsthand the struggles endured and hence the need to situate the party at the centre of national development going forward.

In terms of engagement with the global community, there is need for mutual honesty and respect on both sides. If confidence is to be built, there will have to be robustness also on the part of the international community. Confidence is enhanced if we don't inculcate bad manners in international relations such as the refusal of visas to the Zimbabwe first lady. It is immature and constitutes bad manners.

There is huge amount of potential in our economy, to sustain the entire population of Zimbabwe. The country does not need to rely on international aid. We can and should strengthen our national mechanisms to ensure that we are a self-sustaining country.

Questions/Comments

- The recent attack on Elton Mangoma constitutes human rights violation and the EU should have taken a stance against it in the same way as they have in previous cases.
- Confidence building has to be underpinned by non-partisan principles and honesty, integrity and mutual respect. The importance of sound value systems cannot be over emphasized.
- ZANU PF isn't the only player but an important player
- What has happened to the GPA mechanisms of JOMIC, COPAC and how have they played out up until now? How do they contribute to the current politico-economic situation? We need to build on these efforts in so far as they were important to the national development.
- MDC is 15 years old, it has to be understood in context.
- There is need for formal, non-partisan think tanks in selected sectors. Currently there is an over reliance on elected representatives to foster dialogue on national development.

DAY 2: TUESDAY 6 MAY 2014

AN AGENDA FOR ECONOMIC RECOVERY

SESSION VI - RESTORING SOCIAL CONTRACT

MODERATOR: IMANI COUNTESS – THE SOLIDARITY CENTRE US BASED SOLIDARITY CENTRE

The discussions so far have emphasized the importance of an overarching framework for the entire region. A social contract, ensuring that governments, institutions and labor markets are engaged and radicalized, is critical. It requires a deep examination of the government processes. Gender mainstreaming and integration is a critical element of this process. Its important that we recognize that gender equality does not just benefit women but also the entire society and patriarchy hurts both men and women. Patriarchy hurts both men and women and is an impediment to national development and social sustainability.

LLOYD SACHIKONYE - INSTITUTE OF DEVELOPMENT STUDIES, UNIVERSITY OF ZIMBABWE

It is important that we change our attitudes towards each other in a way that allows national interests to subordinate our narrow interests. A social contract has evolved from state formation in 1980s through Kadoma Declaration (a major moment) and the crises of 2000, to the 2009 set up of GNU. Unfortunately, the Kadoma declaration was shelved in the process and now with the ZIMASSET, the focus of the government has been on the economic blue print without any reference to social

contract. Some elements of the constitution have elements of social contract.

The country is in a bad state at the moment and there is common recognition of the depth of the crisis characterised by closure of firms, job losses, economic decline and it is going to get worse.

It is therefore timely to bring in social partners in mapping out the road map, explore how policies should be revisited, strengthened and implemented. There is need to work out a point of compromise and for closer collaboration among all stakeholders. We did not see this under the GPA where the contest was largely over state power and resources between parties in government, much to the exclusion of other key players. We are going to have to involve and accommodate informal operators such as constituencies of farmers and miners.

Political will is absolutely necessary and a shift in mindset is critical in the way we approach politics. There is need for a national development framework, some kind of anchor rather than short term fixes. Economic blue prints etc are short term, but there is need for social contract, an institutional framework to define and oversee national development.

**TONGAI MUZENDA – DEPUTY MINISTER
PUBLIC SERVICE, LABOUR AND SOCIAL
WELFARE**

There is need to reflect on the past with a view to draw lessons for going forward. Our past experiences should be the engine that drives our national development efforts. The government is committed to social dialogue as evidenced by the creation of the tripartite social mechanism for social dialogue. The social partners agreed on three protocols which include business, price controls etc. Progress on this can only be fully realized if these social mechanisms are depoliticized. There have been some underlying political forces in the social dialogue, dragging things from moving forward. Disharmony is not helpful to the cause for social dialogue. There is need to advance a common cause and to reorient our programmes.

The current political climate shouldn't deter us from forging a way forward for social dialogue and collaboration. The failure to implement the social contract presents with an opportunity to learn. We need to create an institutional framework for social dialogue. There is also need for actors in the social dialogue to put their act together to ensure that the process is effective. Captains of the industry should make conscious efforts to take TNF deliberations seriously.

The social contract required is one that's broader and more inclusive, beyond our traditional tripartite agreement. This is presents an opportunity to reawaken a sense of morality and thereby build our work on solidarity.

Key elements for catalyzing this process include: the need to institutionalise open, transparent and inclusive governance, need to pursue poverty reduction, need for rapid human growth, sustainable livelihood, justice and peace development.

**PETER MUTASA - ZIMBABWE
CONGRESS OF TRADE UNIONS (ZCTU)**

This discussion is timely, happening at a time when the country is experiencing unprecedented economic challenges and political upheaval. Our economic problems are well document and need no emphasis. The difference between the previous economic crisis and the current one is that the government acknowledges it. In order to formulate a way forward we need to track the path we have travelled on and draw lessons.

There hasn't been sufficient implementation of the social contract despite the 2010 launch by the President. The government has been using unilateral and coercive approaches in the process and this need to be revisited. There is no trust between the government and social partners, and there has not been adequate funding committed towards the implementation of the mechanism. If we are to make meaningful development, there ought to be an agreed social contract and enduring social dialogue. The nation cannot be ruled on the mighty power of the state but on social collaboration. The government should abandon unilateralism and adopt social consultation and dialogue. There is need for investment in the building of trust between government and social

partners and all stakeholders must abandon pursuing narrow interests. It's important to bear in mind that the political context has a bearing on the social contract and hence emphasizes the need for robustness to develop a new political paradigm.

We are all in some form of a social contract, it may not be perfect and up to our expectations but we are in it. There will have to be investment in capacity building and gender mainstreaming to ensure that all stakeholders engage meaningfully. It's also important to tackle underlying issues instead of focusing just on manifestations. Also of importance is developing frameworks, monitoring and evaluation processes.

OSWELL BINHA – ZIMBABWE NATIONAL CHAMBER OF COMMERCE (ZNCC)

In 2011 the social contract was declared dead. Business is meant to make money, the more money we make the more jobs we create. The perception that business is the enemy of the state is only detrimental to the government itself. When you are at a negotiating table, you all reduce yourselves to equal

partners, in discussion, in commitments. The social dialogue will not work if one part cherry picks what part they will honor. Trust will never be bought but earned. The government of Zimbabwe should not undermine the role of tripartite partners, business, labour and all have a role in this. Rather they should provide with an enabling environment, create productivity and attract FDI. There is need to explore the possibilities of boosting the business between Wankie and NRZ, the foundation on which we can trigger the economy.

Zimbabwe is small, micro and medium enterprise, there is a difference between informal and small business enterprise. It is important to bear in mind that social dialogue works and can work in Zimbabwe too, provided we foster the right environment. In Indonesia they couldn't do it in a military state, they only did it in 1997. I have seen the success of social dialogue in South Africa. We need to garner efforts, and to learn the power to suspend. Some of us are still in the yesteryear when the world has moved on. We need to explore ways of resuscitating the Kadoma declaration.

Questions/ Comments

- People are in the informal sector not by choice and we can't build the country on the informal sector.
- Tripartite negotiation forums aren't legislated.
- Practical implementation must ensure that the playing field is level.
- Change the language and tackle the underlying issues.
- What monitoring mechanisms have been put in place for this process.
- Need for public policy infrastructure.
- Political will is central and trust is critical.
- Total commitment from all stakeholders to the social contract is essential.
- Success of a social contract defines the success of Zimbabwe.

SESSION VII – AN AGENDA FOR ECONOMIC RECOVERY

MODERATOR: ABDULWAHAB ALKEBSI, CENTRE FOR INTERNATIONAL PRIVATE ENTERPRISE (CIPE)

This is my first trip to Zimbabwe and I have learnt a lot from all the deliberations. We have been operational in Zimbabwe since the 1980s working with ZNCC and have witnessed some key changes and progress towards democratization, through elections, working with the private sector etc. A lot more remains to be done. Without consolidating

ASHOK CHAKRAVARTI – ECONOMICS DEPARTMENT, UNIVERSITY OF ZIMBABWE

Zimbabwe needs to normalize its relationship with international financial systems, that is, IMF, World Bank, with the West and East. There is need for an internal reflection and identify approaches to creating an enabling environment for economic recovery. The world has moved on and Zimbabwe needs to raise its game. In the last 15 years, economics has changed, it is no longer resources based. It is not resources which are the basis of development but institutions that steer and release energy for progression and development. Without the right and effective institutions, it is difficult to navigate out of an economic depression.

Countries such as India and China have been widely quoted for FDI going into their countries. Their leaders had to consciously revolutionize domestic policy environment and institutions. In Zimbabwe, growth started in 2009

democracy, the country will not deliver for the people of Zimbabwe.

There is need for a shift towards market oriented reform in order to provide sustainable livelihoods for the people of Zimbabwe. With 70% of people under 30 in unemployed and with no means of sustenance, democratization is thrown out of the window. In the absence of job creation efforts by the government, people are not going to support democracy. Its critical that institutions of accountability, transparency, public governance are established, supported, monitored and effectively discharged.

following formation of GNU, yet we are already seeing a steady regression. Formal industry is in decline, due to competition from SA imports. 70 percent of imports are from SA and also high cost environment particularly related to wage costs. Dollarization brought some economic stability but a policy dead end made Zimbabwe a high cost economy, wages are high, industry cannot compete.

Mining contributes almost 20% of GDP yet there isn't much revenue going into the national coffers. The national budget is constrained by limited revenue from formal sector and increasing wage bill. It is also constrained by dollarization and high wage bill. There is no policy to curb wage increases.

Informal sector is estimated at 40% of GDP but there is no strategy to raise revenue from them. Mining policy is dominated by indigenization concerns and beneficiation. There are no

incentives for farmers to produce foods vs nonfood crops.

The economic blue print has been widely praised and it is robust, but there

is no real solid policy to raise required investment. The president has appealed for FDI but there is no solid process to garner investor confidence.

PROPOSED SOLUTIONS:

- Monetary Union with SA.180 countries have no currency of their own.
- Restore property rights
- Restore competitiveness
- Enforce wage and employment freeze in public sector
- Focus on informal sector to raise new revenues
- Institute salary ceilings
- Gazette and formalize new regulations.
- Relax indigenization norms
- Institute corporate governance - strict new laws to criminalize corporate fraud.

KUPUKILE MLAMBO – DEPUTY GOVERNOR, RESERVE BANK OF ZIMBABWE

Capital scarcity is the most defining challenge in an economy. Capital is what matters most in an economy. When implementing ZIM Asset we should understand the context we are operating in. Persistent, declining inflation is what the country is faced with. If we sink into deflation we don't have fiscus stimulus to come out of it. Our most pressing worries are, high

debt overhang of 7 billion and 75% of the debt which is in arrears. There is also export underperformance to worry about.

Overall, our problems are structural. We lack competitiveness and productivity, face declining profitability. Public confidence in the banks has diminished. I am not sure we want to pick a currency, the rand is the most volatile currency in the world. Let's keep the currency we have and monitor the situation.

PROPOSED SOLUTIONS

- a) Improve the investment climate – challenge the financial sector, implement institutional reforms at the central bank, recapitalize central bank, find market based solutions, financial inclusion, increase the capacity to invest, invest in infrastructure.
- b) Enhance the productivity of investment. FDI levels are low and hence a need for policy consistency. Investment takes time to build.
- c) Resolve the debt overhang
- d) Identify international champions for Zimbabwe to improve the international image and speak on our behalf.

DANIEL NDLELA – ECONOMIST

We should start by addressing the challenges ravaging the country. We need to realize that sustained economic recovery will require policy coordination, cohesion and commonality of views. There is need for a comprehensive institutional radicalization as has been seen in Ethiopia and Rwanda. There are no soft landings in curing a structural problem, as in the cases of Liberia and Sierra Leone. In Zimbabwe there is lack of vision and planning to anchor the new development plan.

The government should adopt a facilitative role in fostering dialogue among all stakeholders. There has to be a deepened national and regional integration. There is need for value chains and improved national and regional infrastructure. There is need for a clean economic environment, improve capital productivity, create conditions for investment by improving domestic investors. The macro environment has to be conducive for FDI flows, strengthen public financial management and improve confidence. There has to be a serious anchoring of policies to promote economic growth.

Proposed Solutions:

- We have to tackle debt overhang.
- If we are to deal with SMES we are to bring the capital systems. Move into inclusiveness SMEs shouldn't be an add on appendage.
- We have to address the ambiguity of legislation so that the message is clear and sound.
- There has to be revenue transparency in the mining sector.
- Overhaul and increase efficiency of state enterprise
- Strengthen the resilience of domestic financial sector.
- Improve confidence.
- Policy consistency.

NGINYA MUNGAI LENNEIYE – FORMER ZIMBABWE COUNTRY MANAGER – WORLD BANK

The country has been dominated by the indigenization debate since 1998. We have collected an enormous amount of information since then and we now need to chart a way forward that does not keep us on the subject much longer.

emphasized the centrality and an empowered society. This is also important in the drive towards a growing economy. Everyone has got have access to information on opportunities available to them. There has to be meaningful participation by individuals and communities and allow the exercise of choice by all.

Zimbabwe has a population of 12 million in a world of 7 billion, a tiny percentage of the global population. All the historic national strategies have

Efforts towards a growing economy should be driven by human activities that create wealth necessary to address

human needs. Zimbabwe economic growth is stunted.

Proposed Solutions

- Empowerment can drive development – information, participation, accountability and organization.
- Existence of legally enforceable individual property rights provides a sound foundation for rapid economic growth
- Foreign investors are on the whole attracted to countries where conducive conditions exist for investment by local entrepreneurs
- Create a conducive environment that unleashes the talents of Zimbabweans.

Questions/Comments

- We have very informed think tanks in our country and we have a government which either lacks in capacity or is impervious to advice. There is need to buttress policy.
- This information needs to be shared widely
- Obscene salaries - companies must disclose remuneration of their employees.
- Corporate governance is more than criminalization of corruption. Businesses close down not only because of the state of the economy but due to bad governance. Corporate governance is a major issue that we need to spend more time on.
- What should the Diasporas do to contribute to the economy of Zimbabwe?
- How do we climb out of the horrible pit of debt?
- Persistent constraints, broken down institutions, a ruling elite which has a stake in the lack of transparency and consistency and the murkiness of policy
- What does participation mean in politics?
- Zimbabweans talk but nothing happens, it's the nature of decision making and policies adapted.
- Rwanda is an interesting case study for the government to follow up on.
- Zimbabwe has attributes of a fragile state
- Joining the common monetary area of the rand may be the least of the evils.
- If Diasporas don't invest in Zimbabwe why should foreigners invest?
- Seek ye the economic kingdom and the political kingdom will come
- Understand the political ideologies of the ruling party – we are our own liberators
- Need for a proper scheme for engaging the diasporas.

SESSION VIII – REVIVING ZIMBABWE’S PRODUCTIVE SECTORS

Moderator: Caleb Dengu – Zimbabwe Investment Bank

The way the Zimbabwean economy operates is like one running on a treadmill. The ZimAsset is a business plan as opposed to being a national development plan. We have to develop a national framework first before we seek to engage internationally. One cannot play the champions league unless they win the domestic league. We do not manufacture a single handset yet Zimbabwe has millions of them.

NADIA PIFFARETTI- WORLD BANK

Current trends in Zimbabwe are in line with the rest of Africa. There is growing interdependence with the global economy. Smallholder agriculture is vulnerable and there is widespread unemployment. The 2009-2011 growth was powered by favorable economic

conditions. Structural transformation takes time; it is a decade long process.

There is need to grow domestic demand, improve productivity of smallholder farms and household firms. Zimbabwe can get a boost from external demand and take advantage of technological advancement.

PROPOSED SOLUTIONS

- Focus state activity on service provision.
- Avoid being locked in resources dependency by increasing productivity of smallholder farmers, increasing internal demand for manufacturing services, pushing demand for services by informal sector, boosting their finances so they can pay tax.
- Lower the high country risk. If you want investment to flow in , break the country risk down
- Tilt towards short term rent extraction
- Saving levels - growth from the inside – in 1998 Zimbabwe was much richer than China, they where poor but they where saving. Why is Zimbabwe struggling in empowering their people? There is need for savings. China is a good saver
- Leverage the mineral rent
- Strengthen public investment strategy
- Strengthen financial supervision
- Keep macro economic framework stable
- Support increased productivity in small holder farmers
- Access global markets and technological transfer.

GEORGE GUVAMATANGA - BARCLAYS BANK OF ZIMBABWE

It is important to look at what has brought us where we are currently, in terms of value systems, vision and operationalisation of policies. Debates

should centre on the ‘hows’ not the ‘whats.’ There is need to develop a shared vision, sense of ownership – key elements of our national development that have been lacking among Zimbabweans.

We are in competition with other countries and they emerged and progressed ahead of us while we were down. There is need for a close examination of every issue and learn lessons. I have been travelling across the world to identify potential investors. We need to identify strategic sectors, and most importantly prioritize our natural resources accordingly. There is need for flexibility around hiring and firing after the hyper inflationary era. The cost of everything ended up mixed up and unprecedented. We need price correction, failure of which we can't compete with these levels of costs. The multi currency system is going to be around for the long haul. As we do not have domestic savings, we will have to rely on borrowing. When you borrow from external sources, the country risk is a key factor determining the price of borrowing. Higher country risk rating also means the cost of the money from multilateral lenders is higher. There is no panic withdrawal from the banks such stories give us a poor risk rating

Policy consistency is critical for the banking sector. Policies must be clear, straightforward and underpinned by legislation. This will minimize policy reversal and misinterpretation. No one will give you money because they love you but because you have created conducive environment for investors. It's important to acknowledge the consultative spirit by Minister Chinamasa and his efforts to engage us trying to understand things.

BRUCE WHARTON – US AMBASSADOR

SAPES has created a platform for engagement in a constructive and productive manner. Zimbabwe needs to look at ICT as a productive sector and the driver of the Zimbabwean economy. The future of ICT isn't in the hardware but software. Zimbabwe stands at an advantage and has a unique combination of being an English speaking country, have uniquely educated and hard working workforce which sets it up for productivity

Zimbabwe has sovereign power over its own economy. There is need to talk to the ZANU PF government. US is not an enemy of Zimbabwe and is keen to support an activities and policies that increase the country's productivity and international influence. The world wants to see a Zimbabwe that feeds its own people. Zimbabwe needs to recognize its own power, look inwards and see its own strengths and leverage these.

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CHARLES MSIPA – CONFEDERATION OF ZIMBABWE INDUSTRIES (CZI)

There is need for a diversified manufacturing sector to maintain competitiveness. It's important to recognize the integral linkages between manufacturing and agriculture. There is now a problem of an overvalued exchange programme. The multiple currency regime has resulted in shortage of capital. With the lack of affordable funding, manufacturing is sliding backwards.

There are some sectors we are not competitive and we need to focus on fundamental things that we must fix. We need to increase the ease of

conducting business and stay focused on addressing the fundamental factors.

There is need to expand access to finance and tackle the factors that slow down progress such as, policy

instability, inadequate infrastructure (water, electricity), restrictive labor regulation, corruption etc. We have an increasingly positive dialogue, the pre-multiple currency era was much more challenging.

Comments/Questions

- International business actors visiting Zimbabwe should meet with Zimbabwe businesses too.
- For any investor the risk return profile should be acceptable.
- Normalize relations with IMF and World Bank.
- The operational environment is complex. There is rapid, unpredictable change, information access is poor and rumour is rich.
- Expansion of markets for Zimbabwean business beyond Zimbabwe is important.
- Property rights – to what extent has the land reform programme affected them?
- What does a conducive environment look like?
- Media isn't reporting accurately due to lack of access to key people, what systems are in place to facilitate access?
- Vulnerability of labour in the current climate. What is the banking sector going to do to ensure that labor market feels safe and protected?
- Would the world bank be prepared to give assistance to empower rural farmers
- World bank has been conducting knowledge generation initiatives around land.

SESSION IX – MOBILIZING FOREIGN DIRECT INVESTMENT: TRANSCENDING THE SANCTIONS REGIME

MODERATOR – JEITENDRA TRIPATHI, INDIAN AMBASSADOR

There is need for a clear-cut policy, investment protection and investor incentives. In India, you inform the reserve bank within 30 days of planning to invest there. Eliminate corruption to attract investment. Democracies are living organisms; they differ from country to country.

MARCIA MARO DA SILVA – BRAZILIAN AMBASSADOR

Brazil does not have a bilateral investment policy, neither does it have a FDI policy. The change that catalyzed Brazil's economic growth was a social and political pact that, we do not want an economic crisis, hyperinflation etc. The government signed a law, a fiscal responsibility act, which was then cascaded to the state level. We adapted a target inflation, reduced debt and increased reserves so that we wouldn't spend more than we were earning.

The macroeconomic environment became conducive for growth and respected the commitments to the pact. Each state decides what they do to attract FDI and there is innovation and competitiveness. There is diversification of foreign investments and reduced interest rate has allowed for foreign investment. There has been an increase in job creation and which in turn allows for sustainable growth.

Brazil has become a preferred investment destination internationally and potential investors are clear about options for foreign investments, policies and legislation. Clarity, confidence, trust political and social consensus are key in attracting foreign investment. Also, continuity in policy implementation despite change in governance is key in sustain investor confidence.

There is need to tackle problems of hyperinflation and government expenditure. Democratisation is a process and requires change in political culture.

LIN LIN – CHINESE AMBASSADOR

In 1978 we adopted reforms SEZ which have become a trend setter for the economy. If economic growth is to be realized, there is need to respect basic economic rules, test the water before you cross and replace planned economy with market access. Foster an investment friendly environment which includes: preferential land use, tax and industrial policies and protection of intellectual property rights.

There is need for support from central and local government and direct support from different ministries. Local government is encouraged to take initiatives in planning and policy making, and fostering competition between different regions. Hundreds of government officials are invited to China for training etc

Reform and opening up of policy has brought about substantial changes as well as giving incentives to potential investors.

SOUTH AFRICAN AMBASSADOR – VUSI MAVIMBELA

South Africa's approach to investment and economic development in the African continent is premised on South Africa's foreign policy. We recognize the need to invest and innovate around power and ICT in order to compete on the international stage.

SADCs regional Infrastructural development plan has identified catalytic infrastructure that requires 64 billion dollars. SADC should give infrastructure linkages that are easy to reach. JICA assessed 18 corridors for infrastructure development. There is need for increased SADC competitiveness for FDI. Transport, power, and water sectors are lucrative for FDI. There is need to build political consensus and secure high level support and buy-in. Promote competitiveness and focus on infrastructure.

Think regionally when developing national projects and finance projects that matter South Africa's development finance institutions are government

institutions and vehicles for development investment both in South Africa, the region and the continent. The Development Bank of Southern Africa is wholly owned by the South African government.

FRENCH AMBASSADOR – LAURENT DELAHOUSSE

The EU is engaging with Zimbabwe, sanctions are behind us and we want them behind us. Sanctions have had little effect on the economic situation of Zimbabwe so no need to blame it on the sanctions. Better act on the sanctions you are imposing on yourself through country risk, corruption, lack of clarity o implementation of the indigenization law. Discretion is not going to work for international investors. International perception of Zimbabwe is important.

The government is starting to do what is needed to attract foreign direct investment. Ideally they should be able to control its own monetary policy and reengage financial institutions. There is need to move swiftly toward the culture of accountability.

Questions /Comments

- Sanctions propaganda has been effectively anchored into all levels of Zimbabwean society. EU doesn't have sanctions but restrictions.
- South Africa /Zimbabwe relations - South Africa emphasizes multilateral relations, have a bilateral agreement with Zimbabwe on the protection of investment, which contradicts the superior agreement with SADC protocol.
- What is the effectiveness of sanctions in pushing for democratization of Zimbabwe?
- The Africa visit by the new Chinese prime minister hasn't been extended to Zimbabwe. This contrasts the perceived strong relations between Zimbabwe and China – There are ongoing diplomatic visits between the Chinese government and the government of Zimbabwe. China has different relations and priorities with different African countries, so the priority of the current visit is not necessarily Zimbabwe.

CLOSING REMARKS

IBBO MANDAIZA – SAPES TRUST

Sapes Trust and NED express their gratitude to all participants particularly Ambassadors, NED, SAPES team (particularly Fortune Gwaze), panelists, the rapporteur, Tendai Madondo, and all participants. The participation in the last two days has been phenomenal, with 76 organizations, 21 ambassadors, 7 government ministers, 12 people from the diaspora, 153 participants and 500 in the public forum.

This marks the beginning of the long overdue national dialogue. There has been a growing incapacity at the level of the public sector. Zimbabweans are concerned about the need to improve our conditions. There will be a follow up in form of policy workshops in various capacities including global community and state departments. At the public

forum there was intense dialogue that emphasized the need for national dialogue. Political parties must move forward to institute a national convention. We need to move beyond arrogant posturing and foster national consensus.

DAVE PETERSON - NED

I would like to acknowledge and thank the participation of US representatives. I am delighted that we are able to bring together all stakeholders in various sectors to open up political systems. Democracy is a system that has advantages and that is our mission. Ideas have been raised before but what has been striking is how it has brought together variety of stakeholder in frank and open dialogue - business, civil society, political parties etc. We look forward to continuing this dialogue

CONFERENCE POLICY RECOMMENDATIONS

The following policy recommendations were made in the nine sessions covered by the conference;

1. Minister Patrick Chinamasa's Opening Address

- Government should create a good business climate. This is why we have clarified the policy on indigenization and declared our invitation to foreign direct investment.
- In this regard, government will seek to ensure that the Zimbabwe Investment Authority will have full authority to determine investment conditions as a One-Stop-Shop, and thereby approve foreign direct investment.
- Government is inviting investment in power generation, road and rail network, water and irrigation infrastructure and information technologies. The government will invite players through Build-Operate-Transfer (BOTs).
- Government is committed to fighting corruption and we are already demonstrating that we are serious about it.
- Government is committed to assist in reforming and building the public service capacity, not least improvement in service delivery in all sectors, effective and quick decision-making, and the eradication of self-defeating red tape and corruption.
- The Zimbabwe government is putting in place a flexible indigenization policy framework that attracts investment while at the same time ensuring that local people of also benefit.

2. Consolidating Constitutional Reforms

- The enactment of the constitution was a milestone for Zimbabwe. However, the process of implementing this constitution will require the passing of a plethora of legislation.
- Government must prioritise and expedite the implementation of the new constitution particularly provisions dealing with human rights, rule of law and socio-economic rights.
- The implementation of this constitution must be an all-inclusive process involving all stakeholders to ensure mutual accountability with government, underpinned by mutual trust.
- It is important to distinguish between adopting a constitution and constitutionalism. The supremacy of the constitution is sacrosanct and the provisions of the constitution must be observed in letter and spirit to ensure that the constitution is not just another piece of paper.

3. Strengthening National Institutions

- Zimbabwe inherited most institutions from the erstwhile colonial period and has not made efforts to transform the same in accordance with pluralistic practices. Thus there is urgent need for renewal and radicalisation of state institutions, underpinned by the values as in Chapter 9 of the constitution.
- National institutions in Zimbabwe should operate in a politically impartial manner to ensure they operate efficiently and retain the trust of the people they must serve.
- While strong institutions are important, we should seek to have value-based national institutions that protect and support democratisation. National institutions should be free from political and undue interference to ensure they operate effectively.

4. The Role of Civil Society: From Advocacy to Engagement

- Civil society organisations should cease to be extensions of political parties and political forces to ensure that they play their watchdog role.
- Civil society organisations should consider transcending from advocacy to engagement and ensure complementarity with process by other stakeholders.
- Civil society should prioritise the implementation of the new constitution and guard against processes that may result in regression of the milestones made this far.

5. Examining the Role of the Media in a Democracy

- Government must prioritise media reform to ensure with particular emphasis on the broadcasting media.
- The ownership structures in the media have resulted in polarisation between state owned and private media. This has militated against the media playing its functional role in society. There is need for government and the media sector to deal with this polarisation.

6. Reinforcing Zimbabwe's Democratisation Process: A Dialogue To Reinforce Engagement

- Government commitment towards reinforcing engagement must be buttressed by action on the ground. Government must speak with one voice and have policy consistency which is supported by a coordinated approach towards reengagement.
- Whilst international engagement is critical, Zimbabweans must also be in a position to engage with itself through a national dialogue. Local engagement is critical in the development of a common vision and a common message for Zimbabweans predicated on tolerance and accountable governance.
- Zimbabwe's commitment to attracting new investors will be judged according to the manner in which it treats existing investors. As such, a conducive investment

environment for existing investors will be a critical pulling factor to other potential external investors.

- In terms of engagement with the global community, there is need for mutual honesty and respect on both sides. If confidence is to be built, there has to be robustness on the part of the international community.

7. Restoring the Social Contract

- It is important to change our attitudes towards each other in a way that allows national interests to subordinate our narrow interests.
- The Government's new economic blueprint, ZimAsset, does not mention the issue of the social contract. In this regard, there is need, on the part of government, develop long-term economic blueprints which also enshrine government's commitment to the social contract.
- There is need for the common recognition of depth of crisis in the current situation, characterised by closure of firms, job losses, decline in capacity utilisation and how the same has impacted negatively on the social contract.
- Government must develop an institutional framework to define and oversee the social contract which framework must include all stakeholders, government, the private sector and labour.

8. An Agenda for Economic Recovery

- The normalisation of Zimbabwe's relations with international financial institutions should be at the epicentre of the current efforts towards economic stability and growth.
- Government should work on improving the investment climate and ease of doing business, implement institutional reforms at the central bank, recapitalize the central bank and increase the capacity to invest particularly in infrastructure.
- As investment takes time to build, government should have policy consistency, eradicate ambiguity of messaging, have a commitment to implementing policies and resolve debt overhang as sustained economic recovery will need policy coordination, cohesion and commonality of views.
- There is need for government to create a balance between the need to empower locals while at the same time attracting foreign direct investment. In this regard, there is need for a paradigm shift on the part of government in the implementation of the Indigenization and Empowerment regulations.
- While the multicurrency policy has brought relief, government should consider adopting the Rand as the preferred currency as trading in the US\$ is making the Zimbabwean economy less competitive.
- Government should tackle corruption as it is militating against its efforts towards economic growth.

9. Reviving Zimbabwe's Productive Sectors

- Zimbabwe should avoid being locked in resources dependency and focus on increasing productivity of smallholder farms and household enterprises which will increase internal demand for manufacturing and services and push demand for services by informal sector.
- Zimbabwe needs to prioritise investment in ICT as a productive sector and as the future of Zimbabwe.
- The contribution of the mining sector to the growth of the economy measured against its potential has been dismal. There is need for government to put in place a legislative framework that ensures maximum contribution of the mining sector to the overall growth of the economy.
- Policy inconsistency and lack of clarity have impacted negatively on Zimbabwe's country risk assessment, credit worthiness, ease of doing business resulting in international investors shunning the Zimbabwean economy.
- Government should enhance support to the informal sector as a critical productive sector by ensuring access to finance and a conducive operating environment.

10. Mobilising Foreign Direct Investment

- Government should put in place an operating environment which attracts foreign direct investment and position Zimbabwe as an investment destination of choice.
- Government should consider adopting Special Economic Zones which have become international trend setters for the economic growth. SEZs should be accompanied by government firm commitment and support and generous preferential policies to attract investment.
- The Government's economic policy should be augmented by its foreign policy as complementarity between the two policies is vital for attracting foreign direct investment.

CONCLUSION AND WAY FORWARD

The conference concluded that;

- i. Sapes Trust, as a matter of urgency, convene follow-up meetings to focus on; first, the implementation of the constitution; and second, the economic agenda.
- ii. Sapes Trust coordinate follow-up think-tanks meetings focusing on discussions around each session of the conference.
- iii. Sapes Trust continue to work with all stakeholders, that is, government, civil society, the labour movement, the private sector, academia, development organisations, the international community, the church, youth and women organisations in creating platforms to deliberate on the challenges facing Zimbabwe and map the way forward in transcending the same.