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The Thinker

FOR THOUGHT LEADERS

ARE THE SCALES OF JUSTICE BALANCED?

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Nevondwe and Matotoka on Promoting and protecting the right of access to basic education in South Africa

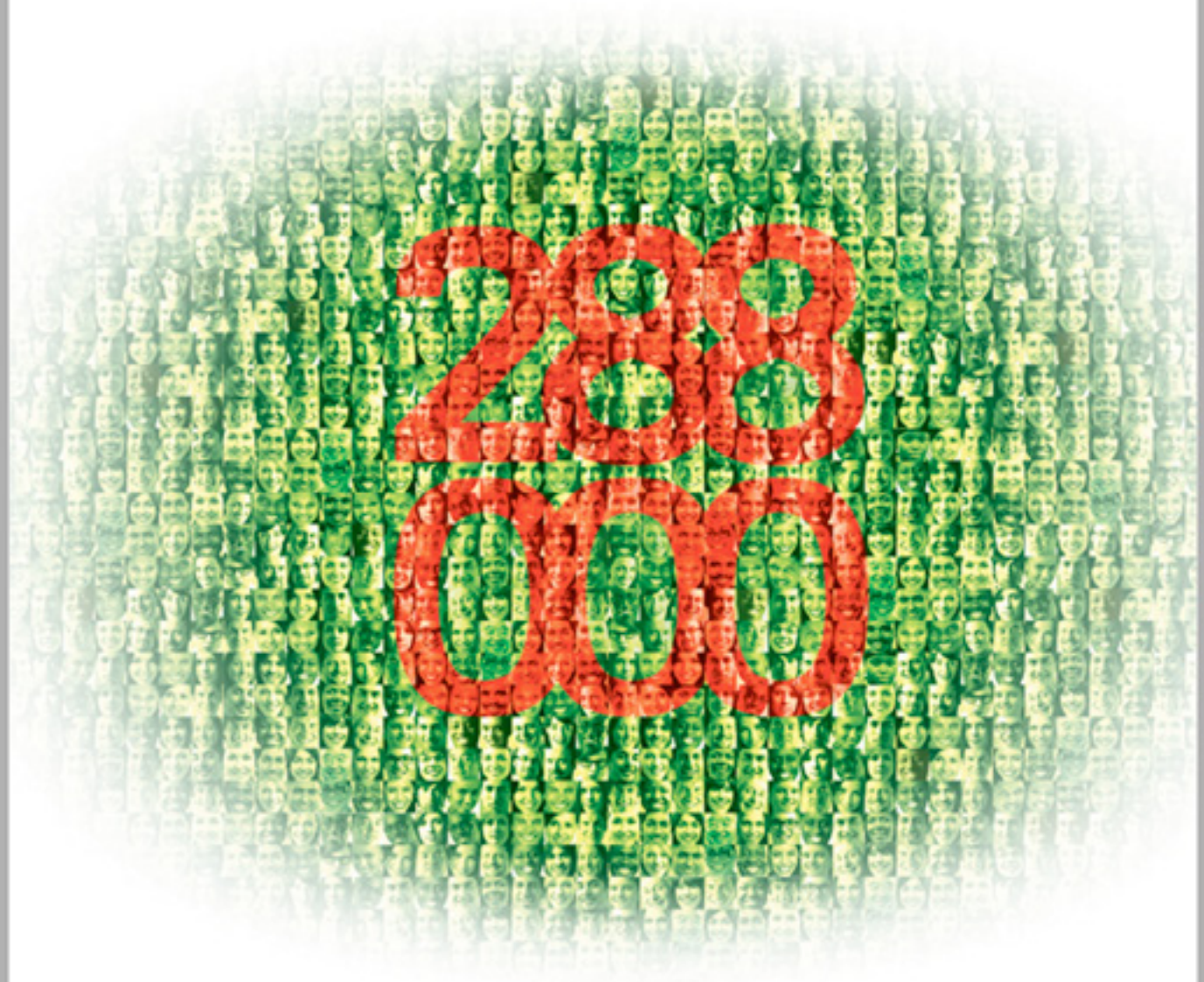
Mqolomba on Constitutional Supremacy versus Popular Consent

Mosiane, Sehume and Mojaki on Project Mangaung

Rakatane on Ubuntu in the jurisprudence and the South African Constitutional Court

Moeroe on Address the historical injustice of African land dispossession now

NEW JOBS OVER THE NEXT 7 YEARS



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In This Issue

On the Cover:

The Judicial system must be transformed

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Are the Scales of Justice balanced?

The constitution in our country is the supreme law. Both the constitution and its offspring, the Constitutional Court, are held in high esteem and admired universally. But do the constitution and our courts, both lower and higher, operate in a manner that ensures that we are all equal before the law in terms of race, class and gender? The simple answer is no. Those who are wealthy, well-connected and hold influential positions in the public and private sector are more equal than the rest.

"As Deputy Minister of Justice and Constitutional Development John Jeffrey says, litigation is out of reach for masses of poor and middle class South Africans, citing that it will cost a domestic worker two days' wages for just 15 minutes of a lawyer's time" (*Sunday Times*, 20 October 2013).

In this issue we publish articles that attempt to shed light on this thorny but critical issue and related challenges. Below we quote a few extracts from some of the contributions. Novondwe and Matotoka, examining the right of access to basic education, write: "The right to basic education remains amongst the centrepieces of transformative constitutionalism. It is therefore imperative that the three spheres of government always take cognisance of the fact that a nation which runs without education is like a forest without trees. The Constitution is a tool which carries within itself an agenda of stabilising the society, burying all wounds of the past and building one unified nation based on human dignity, equality and freedom in general. Hence, it remains fundamental that rights such as the right to basic education be protected at all costs."

Mqolomba in her article argues: "The judiciary continues to be seen as an instrument of elite expression, subverting 'majoritarian perspectives' in favour of minority interests. Put differently, through constitutionalism, individual rights are leveraged over and beyond collective rights. The individual, 'his lust for rights without responsibility', is esteemed above whole societies; used to undermine 'the popular vote', bypassing democratic grassroots participation, disguised in the language of human rights, unable to represent the social values of ordinary people as they live them."

Rakatane on Ubuntu and Jurisprudence is convinced that: "The contribution of Ubuntu to the development of Constitutional Jurisprudence in a democratic South Africa cannot be overlooked or jettisoned. The application of Ubuntu in our land has indeed improved the quality of our life in the context of justice and human rights. It is indeed a trite truth that the essential component of transformation is to cultivate a judiciary that embraces the jurisprudence dictated by Ubuntu and the Constitution."

The Judicial Service Commission (JSC) has the task and responsibility to recommend to the President judges for appointment. Yet we note that only six out of the 23 member commission are women and only 30% of 286 judges are women. This gender imbalance is unacceptable, discriminatory and must be redressed with a sense of urgency. Fortunately the JSC has now taken much needed action. In October 2013 they recommended nine people to be appointed to the high court bench, of whom seven are women. These are Igna Stretch, Somangantie Naidoo, Segopotje Mphahlele, Sungaree Pather, Mari Jansen, Nicoline Janse van Nieuwenhuizen and Nolwazi Boqwana.

However, the battle to change outmoded ideas and systems has to be intensified. For example ANC MP and President of Contralesa, Phathekile Holomisa, argues in an interesting article (*Sunday Independent* 20 October, 2013) that within the mainstream judicial system everyone is not equal before the law whereas under the traditional courts they are. To bolster his argument he says that in traditional courts all litigants are accorded equal treatment and that every villager "has the potential to be an expert." But without any sense of irony and appreciation of the deep wounds caused by sexism and patriarchy he asserts, "The place of the lawyers will be occupied by these men who become renowned for their knowledge of the peoples' history, customs, traditions and culture, which together form the matrix that is the law." So, for our ANC public representative, equality before the law is for men with the women somewhere on the margins.

The struggle to transform our judicial system and its operations continues. In all these battles the ANC and its allies, the SACP and COSATU, are called upon to play a leading and prominent role. This also entails educating their members, leaders and public representatives about the race, class and gender dynamics involved in the process of transforming our country, its political economy and institutions, especially the judicial system. ■

ANNOUNCEMENT

The Thinker

FOR THOUGHT LEADERS

A PAN-AFRICAN QUARTERLY

After a lengthy process of consultation with a number of people including our core advertisers and leading contributors we have decided to turn *The Thinker* from a monthly into a Pan-African quarterly.

It will be Pan-African in form, content, diversity of authors and distribution. We shall endeavour to produce a high quality, authoritative journal which will critically analyse and comment upon the political, economic, social and cultural developments, challenges and opportunities in our continent.

We shall retain our commitment to encouraging young writers from South Africa and the continent to be active participants in public discourse, debate and exchange of views.

We shall devote special attention to the on-going processes for an African Agenda and the African Renaissance. We hope to assist the continent to find African responses and solutions to African challenges, problems and conflicts.

THE INAUGURAL ISSUE WILL BE PUBLISHED IN JANUARY 2014.

Shifts in economic dynamism

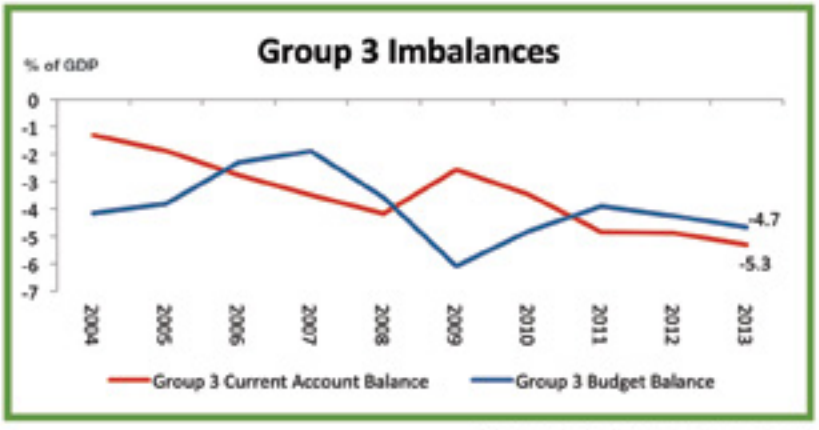
In the last 30 years, international trade has grown considerably. Between 1981 and 1990, trade by developed economies was equivalent to 26.5% of GDP on average. The latest UNCTAD figures, however, show that it is equivalent to a substantially greater 53.3% of GDP currently.

Likewise, international trade involving developing countries between 1981 and 1990 was 41.8% of these economies' GDP, compared to a massive 81.6% more recently. The opening up of global goods, services and labour markets over the last 30 years has presented a wide variety of opportunities, as well as challenges. On the opportunity front, demand sources available to well positioned companies have grown substantially. Global integration also allows for more efficient exploitation of global comparative advantages – so that inflation is more subdued, and global real wealth is ultimately boosted. On the downside, this intensification of competition has threatened growth and employment in the regions which have been more sluggish to respond to changing global dynamics. This has had important implications for changes in the global distribution of wealth.

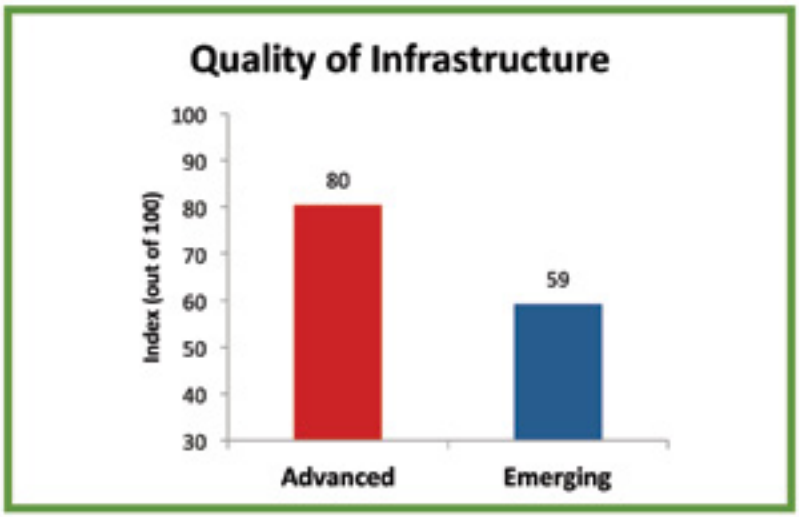
Source: Oasis Research, UNCTAD, 2013

More specifically, the intensification of international trade has driven countries into three broad economic groups, reflecting the exploitation of competitive advantages. Group 1 economies are more efficiency and innovation-driven, with activities in the high value added secondary and tertiary industries. Group 2 economies are typically labour-intensive, with mostly secondary and some primary industries. Group 3 economies represent the others - the net consumers of the world with relatively low savings and investment. The US-led policy of quantitative easing and the global financial crisis from which it was born have played an important role in shaping these economies over the last 5 years. Group 3 in particular benefitted from massive capital inflows stemming from QE liquidity, which was due to generally high real interest rates, and reinforced strong credit-driven consumption growth. The resulting boost to domestic demand left policymakers more relaxed about reforming these economies and generating more supply-side efficiency. Group 1 economies were the most badly hit by the global financial crisis due in part to strong inter-linkages in their financial markets. These economies were forced to undergo major structural reforms, including significant declines in real wage growth, massive private-sector deleveraging, and policy-driven energy sector changes.

As global liquidity conditions tighten, Group 3 consumption growth will start to wane. The lack of supply-side reforms in these economies means that the import intensity of consumption and investment is high, and that there are often no suitable domestic substitutes for imported goods and services. The slowdown in capital inflows thus could drive Group 3 exchange rates abnormally weaker, as the import intensity of these economies remains necessarily high. Additionally, as demand for Group 3 assets weakens, interest rates will rise, constraining domestic credit extension.



Sources: Oasis Research, IMF, OECD, 2013



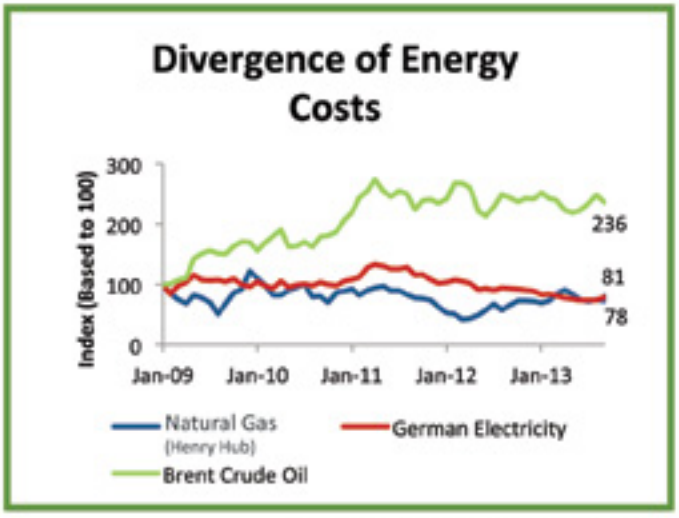
Sources: Oasis Research, WEF, Bloomberg, 2013

have seen evidence of this in the US manufacturing sector, which for the first time in 15 years is creating new employment.

The net result is that countries with advantages in renewable energies will benefit substantially in the future. The competitive edge will put some emerging economies under pressure, and will pose a risk to the oil exporting nations. Just as the emerging market crises of the 1990s forced many of those economies to shake out their cobwebs, the global financial crisis has allowed certain developed markets to establish a more competitive economic position. Additionally, the lack of reforms in some emerging markets, particularly those in Group 3, leaves them vulnerable to crises in the future. Initiatives in South Africa relating to serious structural reforms such as the National Development Plan should now more than ever be fast-tracked into implementation. This will prove crucial in a world without easy money. ■

The slowdown in growth and drying up of foreign capital may depress government funding, leaving less public money for consumer subsidies that are in many cases extensively utilised. A weaker exchange rate and lower capacity for consumer subsidies will drive inflation higher, threatening political stability in these regions. From a competitiveness perspective, increases in the cost of living in many emerging and middle income countries will continue to put upward pressure on labour costs.

In this environment, the structural reforms undertaken by Group 1 economies are proving to be a key tailwind. Technological advances in producing energy, through means such as solar or shale gas, are having profound effects on lowering power costs in these countries. Not only do these developments boost real income and stimulate domestic demand, but also allow Group 1 economies to compete far more effectively with international peers in the goods markets. Superior transport and communications infrastructure in these economies allows them to adapt to changing trends more quickly. We



Sources: Oasis Research, WEF, Bloomberg, 2013

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Promoting and protecting the right of access to basic education in South Africa

Millions of children still remain deprived of educational opportunities, many of them on account of poverty. They must have access to basic education as of right, in particular to primary education, which must be free.

By Lufuno Nevondwe and Mothlatlego Matotoka

According to Mandela "education is the great engine of personal development. It is through education that the daughter of a peasant can become a doctor, that a son of a mine worker can become the head of the mine that a child of a farm worker can become the president of a great nation. It is what we make out of what we have, not what we are given, that separates one person from another".

It is trite and generally accepted that education is a key to success and that the future of a country lies in the hands of its children. Further that education plays a crucial role in the development of human personality, creativity and economic participation and contribution. In his judgment Kollapen J valued education by reasoning that "education is critical in both freeing and unlocking the potential of each person"[1]. In his State of the Nation Address, delivered on the 10th February 2011, President Jacob Zuma said: "The administration must ensure that every child has a text book on time." The right to basic education gives obligation to government to ensure that all schools have essential and basic services including safe structures, fencing, ventilation, lighting, safe potable water, adequate and hygienic sanitation, electricity and information communication technology.

Education rights are contained in section 29 of the South African Constitution[2]. In terms of section 29

of the Constitution, everyone has the right to a basic education, including adult basic education, and to further education, which the state, through reasonable measures, must make progressively available and accessible. These rights place a duty on the state to promote and provide education by putting in place and maintaining an education system that is responsive to the needs of the country.

Education should be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms[3]. The right to education as described above is based on the premise that education is a precondition for the exercise of other rights. If guaranteed, it has the ability to unlock the enjoyment of other human rights and ultimately empower individuals to contribute and participate meaningfully in a free society. This paper outlines the right to basic education as envisaged in section 29 of the Constitution. It also outlines the obligations of the government to realise, fulfil and enforce this right. The paper further critically evaluates the South African Human Rights Commission (SAHRC) Charter on Children's Basic Education Rights and finally it evaluates the obligation of the state as imposed by international covenants and instruments.

The legacy of apartheid on education

Under apartheid, education was structured along racial lines to prepare learners of different race groups for the roles they were expected to serve in a divided South Africa[4]. The main features of the apartheid education system were huge inequality in the financing of education, different curricula for different race groups and restricted access for black learners to higher education.

The differences in education for the different races were vast. White schools had many facilities, such as swimming pools, textbooks, laboratories, and soccer and rugby fields. In contrast, African learners, especially rural learners, walked long distances to schools and operated with few facilities, including lack of proper sanitation, running water or electricity[5].

Today, while schools may not discriminate on racial grounds and must admit learners of all race groups, huge inequalities still exist between schools that were historically 'white' and schools that were historically 'black'. This is mainly because of the way schools are currently funded. The Government contributes funds to all public schools, but these funds are not enough to improve and maintain schools at a high standard, or to employ sufficient numbers of educators at all schools. Schools are therefore allowed to charge school fees to supplement the government funding (South African Schools Act 84 of 1996).

According to Nevondwe and Mhlaba, the effect of this system of funding is that schools in wealthier communities, mainly the historically white schools, charge higher school fees and maintain a high standard of education with sufficient numbers of educators and good teaching facilities. Many schools in poor areas, predominantly African schools, cannot generate high school fees and therefore continue to deteriorate. The government has introduced a system where 60% of schools, particularly in rural areas, are no longer charging school fees[6]. Feeding schemes have also been introduced in both primary and secondary schools for the full realisation of the right to basic education[7]. The introduction of the feeding schemes assists those learners who are impoverished since they can now attend classes while their stomachs are full.

"Today, while schools may not discriminate on racial grounds and must admit learners of all race groups, huge inequalities still exist between schools that were historically 'white' and schools that were historically 'black'."

International Law

The South African Constitution provides that when interpreting the Bill of Rights, the court or tribunal may consider foreign law and must consider international law. The right to education enjoys extensive protection in international law. The right to education is recognised in article 26 of the Universal Declaration of Human Rights (UDHR) and article 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)[8].

The UDHR was adopted in 1948. Article 26 of the Universal Declaration stipulates that

1. "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children".

The Committee on Economic, Social and Cultural Rights (Committee on ECSR) has prime responsibility for monitoring socio-economic rights, including the right to education. The Committee has, to this end, issued a number of General Comments in which the rights enumerated in CESCR are given content. Article 13 of the Covenant provides that education is both a human right in itself and an indispensable means of realising other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalised adults and children can

lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognised as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.

The fundamental question is the extent to which the obligations relating to the right to education undertaken by Member States under international and regional instruments are incorporated into national legal systems. In spite of such legal obligations and political commitments, millions of children still remain deprived of educational opportunities, many of them on account of poverty. They must have access to basic education as of right, in particular to primary education, which must be free. Poverty must not be a hindrance and the claim by the poor to such education must be recognised and reinforced[9].

The right to education is widely recognised in regional instruments. The right is included in the European Convention for the Protection of Human Rights and Fundamental Freedoms (1953). It is also included in the American Declaration of the Rights and Duties of Man (1948) and the Protocol of San Salvador to the American Convention on Human Rights (1988).

In the African region, the right to education is entrenched in article 17 of the African Charter on Human and Peoples' Rights[10]. Article 11 of the African Charter on the Rights and Welfare of the Child (1990) also provides for the right to education.

The right to education is also recognised in a number of international instruments dealing with the rights of specific vulnerable groups[11].

Article 10 of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates that State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

"But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence."

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education; and

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

In particular, articles 23(3) and (4), 28 and 29 of the Convention on the Rights of the Child (1989) (CRC) contain extensive provisions with regard to the progressive realisation of the right of the child to education and the aims of education. A final relevant instrument ratified by South Africa is the UNESCO Convention Against Discrimination in Education (1960). In essence, this means that South Africa must develop domestic policies and legislation entrenching this right to education of children.

The Right to Education in terms of the South African Constitution

Section 29 of the South African Constitution has all the provisions which call for the right to education to be enforced by the State and all the people of South Africa. These provisions are as follows:

(1) Everyone has the right-

(a) to a basic education, including adult basic education; and

(b) to further education, which the State, through reasonable measures, must make progressively available and accessible.

(2) Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the State must consider all reasonable educational alternatives, including single medium institutions, taking into account-

(a) equity;

(b) practicability; and

(c) the need to redress the results of past racially discriminatory laws and practices.

(3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that-

(a) do not discriminate on the basis of race;

(b) are registered with the State; and

(c) maintain standards that are not inferior to standards at comparable public educational institutions.

(4) Subsection (3) does not preclude State subsidies for independent educational institutions".

Section 29 of the Constitution can be described as a 'hybrid right'. This is because section 29 is a socio-economic right that says the Government must make education accessible and available to everyone. But, it is also a civil and political right, as it contains freedom of choice guarantees, such as language choice in schools and the freedom to establish and maintain independent educational institutions. Individuals thus have the freedom to choose between State-organised schools and private education. In the 1996 case of In re: The Schools Education Bill of 1995 (Gauteng) (Schools Education Bill case), the Constitutional Court commented on the constitutional right to basic education:

"This provision creates a positive duty that basic education be provided for every person and not merely a negative right that such a person should not be obstructed in pursuing his or her basic education" (para 9).

In the Schools Education Bill case, the Constitutional Court thus recognised that there is a positive obligation on the part of the State to provide basic education, but it has yet to comment in detail on the scope and the content of this right.

According to Bekker the right to basic education, including adult basic education, in section 29(1)(a) may be distinguished from other socio-economic rights in the Constitution. Bekker argues that while rights such as the rights of access to housing and health care services, and the rights to food, water and social security are qualified to the extent that they are made subject to the adoption of "reasonable legislative and other measures", and "progressive realisation", "within the state's available resources", the right to basic education, including adult basic education, is not subject to the same constraints[12]. This argument is also supported in the matter of *The Governing Body of the JumaMusjid Primary School v Essay*[13] where Nkabinde J stated that:

It is important, for the purposes of this judgment, to understand the nature of the right to 'a basic education' under section 29(1)(a). Unlike some of the other socio-economic rights this right is immediately realisable. There is no internal limitation requiring that the right be 'progressively realised' within 'available resources' subject to 'reasonable legislative measures'. The right to a basic education in section 29(1)(a) may be limited only in terms of a law of general application which is 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom'. This right is therefore distinct from the right to 'further education' provided for in section 29(1)(b). The state is, in terms of that right, obliged, through reasonable measures, to make further education 'progressively available and accessible' (para 37)".

"While rights such as the rights of access to housing and health care services, and the rights to food, water and social security are qualified to the extent that they are made subject to the adoption of "reasonable legislative and other measures", and "progressive realisation", "within the state's available resources", the right to basic education, including adult basic education, is not subject to the same constraints."

This right has accordingly been described as a "strong positive right". According to Bekker, this means that:

"In principle a right of this kind can be asserted regardless of the state's other budgetary imperatives and it is limited even if resources are rationally distributed away from basic education, say, to health care"[14].

The interpretation above indicates that the right to basic education must be prioritised in budgetary allocation and, to the extent that it has not been so prioritised, an individual may assert his/her claim to the public good encompassed by the right. It has been submitted that the general limitation provision in section 36 of the Constitution may nevertheless entitle the state to justify a limitation of the right to basic education on the basis of pressing budgetary imperatives.

The Limpopo textbook saga

The ANC announced in its 2009 election manifesto that education is one of its priorities. In the same sentiment, the Deputy President of South Africa, Kgalema Motlanthe was recently quoted as saying that "Education is the best and only equaliser … only through education will we become a better nation"[15].

According to Isaacs, the crisis in education is one of the greatest barriers to achieving a better life for all in South Africa. It entrenches inequality and impairs the dignity of millions who enter adult life without the tools needed to fully express themselves or contribute meaningfully to society[16].

In 2012, the Limpopo Province in South Africa witnessed what is referred to as the Limpopo textbook saga where the Limpopo school children spent months without textbooks. In *Section 27 v Minister of Education*[17] an urgent application was brought before the North Gauteng High Court, seeking a declaratory order that the failure by the Department of Basic Education to provide textbooks to schools in Limpopo was a violation of the right to basic education, equality and dignity,

and an order directing the department to urgently provide textbooks for Grades R, 1, 2, 3 and 10, by no later than 31 May 2012 to the schools that had not yet received textbooks. The court observed that education is critical in both freeing and unlocking the potential of each person and in this regard the court concluded that the failure by the respondents to provide text books constitutes a violation of right to basic education. Kollapen J pointed out that:

"In this regard it must be abundantly clear that where a violation of rights has taken place, the remedy that is offered must be effective and meaningful. If not, it renders the vindication of rights rather hollow and a court in this regard must act in both the spirit of the Constitution as well as ensuring that when rights are vindicated, remedies are appropriate to meet the mischief which is being sought to be dealt with" (para 35).

Kollapen J added that:

"There is no doubt that an order only for delivery of text books will not address the consequences and effects of the failure of delivery for the first half the year. The circumstances of the matter require an intervention to address both the gaps in learning as well as the quality in learning and teaching, in particular for Grade 10 learners. This is to ensure that the prejudice they invariably would have experienced on account of not having text books, is ameliorated" (para 36).

The question is what impact does the Limpopo textbook saga have on the right to basic education in South Africa? It further raises concerns as to whether a public school is a viable option to adequately realise and nurture basic education. All these concerns are certainly legitimate and are informed by what the Constitution commands. Freedom fighter and Nobel Prize winner Archbishop Emeritus Desmond Tutu said democratic icon Nelson Mandela would be reduced to tears if he knew the poor state of public schools[18]. Although South Africa has not yet ratified the International Covenant on Economic, Social and Cultural Rights, the international law context remains an important consideration in measuring South Africa's performance regarding the fulfilment of the right to a basic education. It is evident from the Limpopo textbook scandal that there is still a long way to go for the realisation of the right to basic education. South Africa as a country has obligations in terms of the Constitution and international instruments to realise this right. Compared to other African countries, South Africa has a good legislative framework and policies on basic education and the challenges emerge in the enforcement and implementation of this right. Skelton correctly pointed out that the effective provision of a basic education requires a co-operative governance approach involving the national and provincial departments as well as a partnership with school governing bodies which are democratic, largely independent entities[19].

> "The right to basic education remains amongst the centrepieces of transformative constitutionalism. It is therefore imperative that the three spheres of government always take cognisance of the fact that a nation which runs without education is like a forest without trees."

A comparative study between South Africa and India

The right to education also enjoys adequate recognition in India. In terms of Article 21A of the Indian Constitution the state 'shall provide free and compulsory education to all children on the age of six to fourteen years in such manner as the State may, by law, determine. Similarly to South Africa, the Indian law imposes an extensive range of obligations on the state to provide an adequate education.

In furtherance of the right to education, the Indian parliament passed the Right to Free and Compulsory Education Act (RFCEA)[20]. According to Mcconnachie and Mcconnachie the significance of RFCEA is that it contains extensive norms and standards for the provision of school facilities requiring one classroom for every teacher, administrative office space, gender appropriate sanitation, safe and adequate drinking water, a kitchen, a playground, security walls or fencing, teaching and learning equipment, play material, games and sports equipment, and a library[21].

It has been submitted that in both South Africa and India the state may (indeed, is obliged to) direct spending away from other programmes, such as higher education, to basic education until the obligation correlative to the right in section 29(1)(a) is completely discharged(22).

In *Unni Krishnan, J.P. & Ors.v. State of Andhra Pradesh & Ors*[23] the court had found that the right to basic education is implied by the fundamental right to life when read together with the directive principle on basic education. In particular, the Court held that the right to life meant not merely that life cannot be extinguished or taken away. An equally important aspect of the right is the right to livelihood because no person can live without the means of livelihood. Included in the means of earning a livelihood, according to the Court, was the provision of educational facilities. The court then had to consider the content of this right; that is, what level of education was needed to make life meaningful. To this end, the court looked at the directive principles on education, viz. Article 41, which states:

"The State shall, within the limits of its economic capacity and development, make effective provisioning for securing the right to work, to education and to public assistance in cases of unemployment, old age sickness and disablement, and in other cases undeserved want."

And article 45, which states:

"The state shall endeavour to provide, within a period of ten years from the commencement of this Constitution for free and compulsory

education for all children until they completed the age of fourteen years."

Finally, article 46 of the Indian Constitution states:

"The State shall promote with special care the educational and economic interests of the weaker section of the people and in particular, of Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

The Court found that these provisions set the parameters of the content of the right to basic education. In particular, it focused on article 45, which prescribed a time-limit for the provision of compulsory education for children under 14[24]. To the extent that compulsory education had not yet been secured, the Court held that the State was obliged to provide education for children under 14, including the provision of educational facilities. The state's obligation in respect of tertiary education, on the other hand, was found not to be absolute, but subject to progressive realisation, the availability of resources and social circumstances[25].

Conclusion and recommendations

In his State of Nation address, President Jacob Zuma announced that the adult education programme reached more than 2.2 million people between 2008 and 2011. South Africa has also witnessed an improvement in the matric pass rate in recent years, which in essence confirms that the government is committed in improving the education system in South Africa; but more still needs to be done. The right to basic education remains amongst the centrepieces of transformative constitutionalism. It is therefore imperative that the three spheres of government always take cognisance of the fact that a nation which runs without education is like a forest without trees. The Constitution is a tool which carries within itself an agenda of stabilising the society, burying all wounds of the past and building one unified nation based on human dignity, equality and freedom in general. Hence, it remains fundamental that rights such as the right to basic education be protected at all costs.

This is particularly necessary because the apartheid regime split their education systems along racial divides and this meant that the majority of the people did not receive an appropriate education whereas the minority did. This certainly broadened gaps in literacy levels. The Constitution hence sought and still seeks to avert this by specifically entrenching the right to basic education so as to bring about change by closing literacy level gaps. From the experience of the Limpopo Department of Education, it is clear that what happened is a bad precedent as it goes against what the Constitution sought to achieve. Taking from these averments and other relevant factors, it is asserted that there is still a hope and if we are all committed, we can improve our educational system to be the best.

In order to ensure that the Limpopo Textbook saga does not occur again this paper suggests that:

- The elected government should through the department put reliable plans in place every year since it is the duty of the department to make sure that books and other learning materials are ordered and delivered on time for the full realisation of children's rights to basic education.
- The communication between the offices of the Minister of Basic Education, the provincial education departments, distributors and publishers of books should be improved and must always be intact.
- There should be adequate training of members of the School Governing Bodies (SGBs) so as to ensure that members understand their duties once they are appointed. In addition, the criteria for the appointment of SGB members should not be based on political affiliation but rather on qualifications. Once members can have a certain level of literacy it would make training more efficient and productive.
- School managers, teachers, and other support staff must commit to being in their respective schools ready to start with lessons the first day of the academic year. In this respect, harsher sanctions should be imposed to those who do not commit to their roles.
- The learners must take their education seriously because the future of the country, continent and the world is in their hands. Nelson Mandela once said: "education is the most powerful weapon you can use to change the world". In this regard all South Africans from all walks of life must be encouraged to continue to learn. ■

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RECONCILING DIFFERENCES?

Constitutional Supremacy versus Popular Consent

In essence, the judiciary has the powers to make judgements on the actions of the legislature and the executive but cannot pass laws. The legislature can make laws but cannot hand down judgments or take executive action. And understandably, it is often not easy to keep these in balance.

By Z.N. Mqolomba

South Africa has a long history of opposition and resistance to the State. The Judiciary has long been seen as an extension of the Apartheid State; an accomplice in the suppression of majority voices ensuring that social justice remained the preserve of the white minority. More generally, the state served as a powerful site of struggle, mirroring much that constituted South Africa's contradictions. This is because state institutions were pivotal in the processes of entrenching and reinforcing a system of unequal relations.

The apartheid state, for instance, was rooted in an ideology of racial, gender and class-based inequality. In apartheid society to be white and male was deemed inherently superior to being black, a women and/or from a working class or peasant background. It was not a coincidence therefore that the democratisation of the State became central to South Africa's transformation project post 1994. Central to the post-1994 reconstitution of society was the move away from an authoritarian exclusive system to a constitutional democracy. Under apartheid, the legislature had final authority and ultimate sovereignty in law-making processes, provided that the correct procedures were followed. The executive served as an extension of legislative power to administer its laws with rigour and favour. With some exceptions the judiciary neither contested nor protested.

Since 1996, the constitution has become the cornerstone of South Africa's democracy, envisaging large-scale social democracy, redistributive justice and egalitarian social transformation. The Constitution is the

highest authority of the land, even over the legislature; it is the yardstick by which all other laws are judged. It has received acclaim and commendation for its inclusive and extensive consultative process, as well as its transformation agenda for change.

Constitutional supremacy gives judges immense power to decide matters normally placed on the legislative agenda and final say over issues as varied as the death penalty, abortion, gay rights, and the distribution of benefits in society and criminal justice matters (Jagwanth, 2003). The supreme status of the Constitution is set out in Section 2 of Chapter 1 as follows:

This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.

In essence, what this means is that the courts have become critical sites of power, having the authority to contest and to strike down any law that violates the Constitution, or any conduct that conflicts with it. This is possible because, in South Africa's constitutional democracy, power is separated and distributed between the executive, the legislature (parliament) and the judiciary. Secondly, the courts are independent and are therefore subject only to the law and the Constitution of the land itself. In this instance:

The legislature (parliament, the provincial legislatures and local councils) makes the laws and monitors the executive; the executive (the president, deputy president and ministers) makes policy, proposes laws and implements laws passed by the legislature; and the judiciary tries cases and administers justice. (Jagwanth, 2003, p12)

In essence, the judiciary has the powers to make judgements on the actions of the legislature and the executive but cannot pass laws. The legislature can make laws but cannot hand down judgments or take executive action. And understandably, it is often not easy to keep these in balance.

It is for this reason that over the years the courts have remained important sites of power struggles. In the light of Constitutional supremacy, there are scholars who question the extent to which legislative arrangements have given insufficient credence to previously marginalised voices, and in ways that engage constructively. Undoubtedly, South Africa can quote a number of cases wherein the Courts have obliged the executive and legislature to amend social policy in ways that give expression to constitutional rights, with little regard for popular will. Some have seen such decisions as anti-state, or as favouring unAfrican or liberal worldviews. Constitutional supremacy has therefore come under intense scrutiny with critics describing constitutional arrangements as the 'legalisation of politics' (Jagwanth, 2003). Worse, constitutional jurisprudence is seen as an extension of privileged voices, privileged ideas and privileged experiences. This criticism takes on considerable posture largely because of South Africa's segregated history of struggle for 'self-realisation' and 'self-determination', in the context of continued racial, class and ethnic privileges.

The questions raised in this paper affirm neither 'constitutional supremacy' nor 'homogenous majoritarianism' as concepts in and of themselves. Whilst the paper brings to light the complexities and contradictions inherent in constitutional processes, it acknowledges the shortcomings and contradictions of both, in particular the latter. Whilst the concept of "the popular will" and "popular consent" has played an important role in rallying people in the struggle for democracy in South Africa and Africa as a whole, the paper acknowledges that scholarship on social justice has long problematised majoritarian 'political rhetoric' as existing in isolation of the rights of minority groups; existing supremely in, of and for themselves exclusively. Democracies that affirm the rights of minority groups have long exposed the fallacies of constructed homogeneity: as people are clearly as much alike as they are different. There are also many instances wherein conservative majoritarianism has clearly been problematic, particularly in regards to the multiple roles of the law; its role extending beyond codifying social values to defining and maintaining a 'social contract' that protects the rights of all, spurring social change. The protection of the individual's right to be different and to break from social orthodoxy should remain as sacrosanct as the individual right to choose social conservatism. This is not the issue of contest.

What this paper seeks to do is to point out and bring attention to the contradictions, nuances and tensions inherent particularly in the processes intended to 'reconcile social differences', the consequent substantive interpretations; challenging the notion that South Africa's constitutional democracy is one that works for all. It uses South Africa's legislative contradictions as metaphor. By inference, it concludes that reconciliatory efforts are not always consensual, constituting agreement between willing and able parties. On the contrary, reconciliation is often imposed and may be induced violently. It is disingenuous to romanticise reconciliation. This is because reconciliatory efforts do not always result in win-win situations. In reality reconciliatory efforts often impose serious compromises, sometimes on all parties, sometimes only one, or one or more other parties. In bringing to light the fragility innate in reconciling the seemingly irreconcilable, it de-romanticises the process, as well as the outcomes of necessitated compromise. It calls instead for deeper reflection on what we have deemed so dear. It is in fully contemplating the wins/losses paradigm that we will be better placed to (re)constitute a dynamism in the manner in which we engage reconciliatory processes. To be reconciled means to be reconciled not only to one's own wins and losses but to those of others as well.

Constitutionalism versus Popular will

"Judges, like all of us, have personal and subjective viewpoints which they will bring into the process of constitutional interpretation. Allowing judges to exercise this power and influence matters of policy is clearly problematic. Given that 'the jurisprudence of the courts has often not

yielded the protection for vulnerable groups which the Constitution appears to envisage', this speaks much about the importance of diversity in transforming the judiciary. Indeed the judiciary must be transformed. Diversity and broad representation must lie at the centre of all efforts. Broadened participation won't only enhance the robustness of judicial processes but will likely increase the quality of decision-making and outcomes" (Jagwanth, 2003: 200).

The judiciary continues to be seen by some sections of society as an instrument of elite expression, subverting 'majoritarian perspectives' in favour of minority interests. Put differently, through constitutionalism, individual rights are leveraged over and beyond collective rights. The individual, 'his lust for rights without responsibility', is esteemed above whole societies; used to undermine 'the popular vote', bypassing democratic grassroots participation, disguised in the language of human rights, unable to represent the social values of ordinary people as they live them.

These views are shared by traditional leaders. The Chairman of the National House of Traditional Leaders, Khosi Kutama, asserts:

"Our people are no longer dreaming their own dreams. The political elite dream up dreams of New York and pose these as our own for the sake of political expedience".

In light of the global shift towards entrenched rights discourse, scholars contend that civic participation has been undermined by the consequent and increasing transfer of power to the judiciary, alleging that the judiciary exercise greater power in determining matters of social policy (Jagwanth, 2003).

South Africa's transformation resolve is seen as being contaminated by compromise susceptible to privileged opinion, subjected to review constituted by historic elites. Sceptics of judicial review argue that by their very nature, judges are likely to come from the elite groups in society and will exercise their subjective discretionary powers in favour of vested interests rather than disadvantaged groups. Thus gains in the courts are more likely to be for privileged groups at their expense as courts show preferences for some policy choices over others. It is in this instance that the ANC-led government is seen by its critics as having been afraid to wield the will of the people and has submitted 'the people's power' to the bidding of elites under the guise of constitutional democracy. This view is strengthened by findings of reviews of constitutional litigation.

Notwithstanding the content of the Constitution, a review of constitutional litigation in the past seven years suggests inescapably that it is the more privileged groups in society that are seeking the protection of the Bill of Rights in the courts (Jagwanth, 2003: 200). Indeed there are few instances of the more disadvantaged groups in society – the very groups the Constitution was designed to protect – using constitutional litigation as a way of articulating and protecting their rights. In addition, "the jurisprudence of the courts has often not yielded the protection for vulnerable groups which the Constitution appears to envisage. Given that in a constitutional democracy, courts are the primary protectors and final arbiters of constitutional rights, this trend is a disturbing one" (Jagwanth 2003:15).

> "Some have seen such decisions as anti-state, or as favouring unAfrican or liberal worldviews. Constitutional supremacy has therefore come under intense scrutiny with critics describing constitutional arrangements as the 'legalisation of politics'."

However, Jagwanth also points out that judgments of the Constitutional Court on cases such as these are crucial to understanding the role of subjectivity and judicial power in the context of South Africa's constitutional democracy. She contends, for example, that "The concern about the tension between entrenched and justiciable rights and democracy goes beyond the question of the legitimacy of unelected, unrepresentative and unaccountable judges deciding matters of social policy normally left to the elected branches of government. The concern is also that the process of constitutional interpretation is an inherently and unavoidably subjective one, which is open to a number of different outcomes depending on the personal and moral convictions of the interpreter. The meaning of statements of abstract rights is imprecise, uncertain and incoherent. Thus, in seeking to find the meaning of the words of the Constitution, it is necessary to go beyond the words of the text and to engage in a form of political and moral reasoning."

In spite of her view that judges interpret the constitution subjectively, Jagwanth disagrees with sceptics who hold that courts inherently use judicial power to protect and promote elite interests. In other parts of the world, she argues, the subjective nature of constitutional interpretation has led to cases in which important gains made for women and other disadvantaged groups at the legislative level have not been successfully challenged in the courts as violating other constitutional rights – affirmative action being the prime example.

Judicial Prudence: A Zero Sum game?

She also argues that judicial power does not necessarily trade off in zero sum ways with that of other policy makers. Firstly, when she looks at the policy-making function of the Judiciary in context, it can also be argued that judicial activism or judicial power has been applied in the spirit of law, and used in profitable ways that protect powerless minorities, such as bonded labour, prison inmates, awaiting trial prisoners, sex workers etc. Secondly, she argues that the Constitutional High Court has also made some significant policy contributions by interpreting

the Constitution permissively, giving the Legislature or the state opportunity to align social policy to constitutional imperatives. This can be seen in cases already mentioned (i.e. the death penalty, abortion, and civil union marriages). Better yet, the Constitutional Court has even ruled in support of previously marginalised and vulnerable groups.

A relevant example of judicial prudence is *South Africa versus Jordan and others*, wherein Jordan and others contested the constitutionality of criminal law against prostitution. In this case, the Constitutional Court (represented by judges Ngcobo, O'Regan and Sachs) unanimously upheld the High Court's finding that the brothel provisions are valid. The judges conclude that the prostitution provision does not infringe the rights to human dignity and economic activity and that if it does limit the right to privacy, such limitation is justifiable. They do, however, differ on the question of whether the provision constitutes unfair gender discrimination, with O'Regan and Sachs finding that it does by making the prostitute the primary offender and regarding the patron at most as an accomplice, and therefore reinforces sexual double standards and perpetuates gender stereotypes in a manner impermissible in a society committed to advancing gender equality.

Both judgments make it clear that the decision as to how to regulate prostitution is a matter primarily for the Legislature. Open and democratic societies around the world have chosen from a wide range of options to regulate prostitution. It is for the Legislature, within the constraints of the Constitution, to decide which of these options suits South Africa best.

It is also not easy to keep a balance when it comes to separation of powers between the three arms of the state. Often the challenge is to ensure that the executive does not wield its authority without being constrained by the other branches. The courts uphold the importance of having the legislature as the drafters of legislation and will generally defer to its decisions unless those decisions fall outside the scope of constitutionality. Most legislation will not be tampered with by courts even when courts think that the legislation is bad. It is only when the legislation infringes on the fundamental rights of people that the courts will overturn legislation. Even when courts overturn legislation they don't generally replace it with their own vision of what the legislation should look like. Instead a court will generally do this: They will declare the legislation unconstitutional and invalid. But they will suspend the order of invalidity for 1 or 2 years (i.e. the legislation keeps operating for that period). They will also order that the legislature corrects the legislation within the next 1 or 2 years and replace the unconstitutional legislation. Thus the legislature can then select what legislation they want to use to replace the unconstitutional legislation. In this way the courts try to respect democracy and promote democratic participation. Thus, also, public/policy interest groups can have a great deal of impact on legislation, even though it must still be within the constraints of the constitution.

The reverse is also true: interest groups can and frequently do use courts to invalidate legislation. But those interest groups will almost never convince the courts to write new legislation. Instead the interest groups will have to lobby the legislature to convince it to pass the legislation they support. Having said this, however, the theoretical question remains: should there not be limits on the powers of courts to decide matters which properly belong on the agenda of the elected branches of government? The above-mentioned cases show the ability of the courts to curtail their power and to defer to the legislative and executive agenda in appropriate circumstances, while at the same time fulfilling and promoting the transformative norms of the Constitution.

Some questions to ponder

The legislative process in South Africa is indeed a nuanced, multi-layered and ideological struggle. The constitution and reconstitution of social identity continues as a contested terrain. The structural process and subsequent content of reconciling difference needs to receive as much public attention as the obligation to protect and defend the best interpretation of South Africa's constitution. Whilst judicial prudence does not necessarily result in a zero sum game, there are a number of issues that emerge, painting a nuanced and complex picture of contradictions. These gives rise to a number of questions with respect to policy discourse on critical social issues:

- Whilst South Africa's constitution obliges diversity and broadened participation in legislative processes, does South Africa's constitutional democracy allow for diversity in thought and interpretation?
- What kind of society versus whose society do we want to build? In what versus whose image are we building this new democracy?
- What are the obligations towards preserving homogeneity in nation-building, particularly in a multi-cultural and pluralistic society? Does elementary homogeneity in nation building matter at all?
- Does majoritarian homogeneity really exist? Should it matter? For whose gain and at what expense?
- How do you find alignment between competing social ideals and values? Are there South African ideals/values that can be regarded as irreconcilable? Whose ideals/values? Which ideals/values?
- Does South Africa have an instructive process for not only reconciling differences but resolving tensions induced by differences? Does reconciling seemingly 'irreconcilable differences' matter at all? ■

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Project Mangaung

Beyond ANC conference palavers 'Project Mangaung' has to work. The foundational edifice upon which the present development trajectory is based, undergirded by nuances of the NDP, is firm. Only a little nudging by a sound intergovernmental system that will act as scaffolding is required.

By Radnaledi Mosiane, Maleshoane Sehume and Olebogeng Mojaki

Mangaung metropolitan municipality has not limited its vision to the prescribed Integrated Development Planning approach. Going beyond these parameters is the leitmotif of Mangaung's development trajectory. Whereas the IDP requires that the community prioritise developments, the weighing of hard choices towards sustainable improvements of livelihood requires 'leadership' and a change in mind-sets. Certain principled stances undergird the choices being made, key amongst which is a deliberate determination by the municipality to 'lead' development within its jurisdiction. This is in recognition of the objective reality that the current pedestrian growth rate of the South African economy makes it difficult to achieve a fast or dramatic reduction in relation to poverty and inequality.

A structured critique of the development path charted by the municipality requires a heuristic framework of analysis. In the present sense, a 'critique' does not connote the examination of validity or the exposure of invalidity, but an interrogation of the possibilities for success. For purposes of our analysis, we use the simple heuristic approach that looks at context (when and where?), process (how?), actors (who?) and content (what?). In an effort to buttress the need for improved reflection, we also identify risk factors that may scupper the prospect of success in the implementation of the municipality's progressive development programme. We conclude our observations by providing only strategic proposals necessary to any attempts at unscrambling Mangaung's historical development omelette.

In understanding, the key responsibilities and functions of local government in South Africa primarily centre around (1) proper management of public finances, (2) service delivery, (3) socio-economic development, (4) management of community affairs, (5) inter-sphere service integrators, and (6) employers (Africa & Mosiane; 2011:9). Furthermore, other spheres of government are constitutionally empowered to assign additional powers and functions to the local government sphere. This notwithstanding, municipalities are afforded the opportunity, within certain specific legal frameworks, to pursue any of these functions through a variety of methods such as public-private-partnerships, municipal entities, public-public-partnerships, etc. Needless to say, in pursuing any of the available options, as the employer the Metro must observe the injunctions of the labour relations regime governing its operational environment.

At the level of context we adopt the attitude of Dickens' Thomas Gradgrind, who the author describes as "(a) man of realities. A man of facts and calculations... ready to weigh and measure any parcel on human nature, and tell you exactly what it comes to" (Dickens; 1854:2). As they pertain to Mangaung, facts are that 63% of households earned less than R3 200 a month in 2010 (25.3% earned between R1 600 and R3 200), which was only a percent less comparable to national average. The largest population segment consists of people within the working age of 15-65, the majority of whom are the youths. The unemployment rate decreased significantly by 12.4% from 40.1% in 2001 to 27.7% in 2011, with youth unemployment rate declining by 11.9% to 27.7% within the same period. Of importance, however, is that the population has increased by 16% between 2001 and 2011 (Stats SA; Census: 2011). In the same period,

Mangaung received approximately 6 577 non-South African citizens. A study conducted in 2010 indicated that housing backlog in the municipality stood at 53 820, and this number increased to 58 820 in 2011. The demand was mainly found in the affordable (GAP) and rental market. The attendant pressures of urbanisation, migration, population increase and declining economic performance of all factors of production collectively place strenuous demands on the services government provides.

The development landscape in Mangaung is also nuanced by the adoption by national government of an all-encompassing National Development Plan. The Plan may be seen as an inauguration of the ruling party's desire to construct a "developmental state". In ANC parlance, attributes of the developmental state includes "strategic orientation; ideational capacity (ability to lead in defining a vision and to mobilise and lead society behind that vision); organisational capacity (structures and systems); and technical capability (skills to translate ideals into programmes and projects and ensure their implementation" (Netshitenzhe; 2010:4-5). But what does all this mean for the Metropolitan Municipality? In short, it means that Mangaung must attune its orientation, posture and form as a significant, but small part of the much larger organism mutating into a developmental state, using the NDP platform to overcome Apartheid induced under-development asphyxia.

Below we reflect on the Metro's response to this challenge and deliberately attempt to gauge complementarities between its endeavours and those of the national government towards a trajectory articulated in the NDP, purportedly an output of developmental conceptualisation of the challenges the country faces. Needless to say, in the context of globalisation, cities present unique challenges of poverty reduction and the attainment of rights. "The inexorable urbanisation of society places the city at the core of the developmental agenda of the twenty-first century" (Parnell & Pieterse; 2010:146). Along with the movement of people is the urbanisation of poverty which underscores the need for a debate, transposed to the city level, on the developmental state.

Like most South African municipalities, Mangaung Metro has the characteristic of a segregated and fragmented city. Bloemfontein is the economic bellwether upon which Botshabelo and Thaba-Nchu regions depend. The city has developed in a binary manner with much investment in the northern, growing speedily towards the western part of the city, whereas the south-eastern part has been characterised by low-income and low density government subsidised settlements. This characteristic evinces apartheid spatial planning. In an endeavour to overcome this and foster integration, Thabo Manyoni (the Executive Mayor) has determined that a development corridor be initiated along the N8 connecting the three regions.

> "Communities need to be empowered about the options available and what the municipality is doing to address homelessness and landlessness and the consequences of land invasion."

There are a number of development strategies available to contribute towards a more integrated spatial city. The one option is to provide an efficient, effective and affordable public transport to link the areas of social and economic activity with the former township areas that are less developed. Not fortuitously, Manyoni has opted for a more compact city form to reduce per capita cost of land for the low-income households. His approach involves the development of nodal points so as to create development corridors, providing transport routes and trading areas with a ribbon-like development along the axis. Any corridor development requires two dominating growth points that are mutually dependent on each other for social, administrative and economic interaction. It entails the agglomeration of economic activities and increasing trade along the axis to develop secondary centres in between to integrate communities (Geyer, 1987:271-272; and Thomas, 2009:5-7). Jenkins (2004:227) emphasises the need for close integration of transport infrastructure and land use to enhance the development corridor.

Although the above development option is available to the city, some argue that there are limits in the extent to which planning can transform cities. More attention needs to be paid to the nature and structure of the economy of Mangaung and its spatial dynamics. Whereas development planners usually locate economic activities in spaces desired by the spatial plans, the Metro can 'lead' development by ensuring that spatial plans conform or relate to existing and potential socio-spatial economic dynamics of the city and its relation to the surrounding towns and the rest of South Africa as conceptualised in the municipality's long-term development strategy. This intimation underscores the fact that Spatial Development Plans are not inherently effective in triggering and spurring development that is consistent with the objective of a developmental state.

Having defined the context within which development work is undertaken, it is necessary to understand how this will be achieved. Overcoming development challenges require strategies that offers multiple and fecund outcomes. Among instruments to address its development challenges and achieve Outcome 8 and the Millennium Development Goals, Mangaung Metro identified seven (7) strategic land parcels for the implementation of mixed use development to create integrated human settlements. Such an instrument upon which Manyoni has appended his signature is the RRRIC development strategy. This refers to a development consisting of a combination of retail, recreational, residential, industrial and community facilities. The strategy seeks

to attend to multiple challenges to which the National Development Plan refers. Undergirding this approach is an effort to facilitate social integration and cohesion by providing a mix of housing options. Collectively, these developments will entail various housing typologies and provide wide tenure options to beneficiaries, such as ownership, rent, rent to buy as well as mortgage loan options within the same geographic space. Similarly, proximity to retail facilities and industry also eliminates transport costs for residents and consumers while creating job opportunities around residential settlements.

The main ingredient to the success of this approach is development partnerships between the municipality and the private sector and between the municipality and other organs of state (provincial and national governments). It is notable that the municipality has accepted its administrative and financial limits and externalised the development work undertaken in the RRRIC projects. Needless to say, through its ownership of the land the Metro retains the possibility of affecting the course of events across these initiatives. In doing this, the municipality has rejected isomorphic mimicry as an organisational strategy, thereby setting itself as a strategic innovator and development leader. Advertently, development partnership has been adopted as an integral part of the strategic orientation currently in place. Continuous engagements with all partners will be required to secure the sustained collaboration necessary for the success of these developments. The important question, however, is whether the private sector will come to the party. In 2012, it was reported that about R1.2 trillion was sitting idle in private hands and not invested in the SA economy, whilst R300 billion was held in cash deposits in 2006 (City Press, 21/04/2012).The RRRIC type development opportunities are an invitation to financial and industrial behemoths to invest and participate in the development of the city and its people.

Linked to the RRRIC approach is a comprehensive initiative centred on Informal Settlements upgrading. Land invasion resulting from land hunger has been on the increase over the past few years. This has been compounded by migration to the city as earlier indicated. Accordingly, the Metro currently has 28 informal settlements (possibly increasing) crying out for development. The settlements are dissimilar in size and characteristics. It is therefore not fortuitous that the informal settlement strategy currently being developed will adopt an asymmetric approach which will consist of upgrading, resettlement, education and enforcement.

The upgrading component will address issues related to formalisation and basic service provision where the land is habitable. However, where conditions pose dangers to communities or the land is zoned for different purposes, resettlement should be the option. Needless to say, it will be foolhardy to expect that once people are resettled from a settlement, it will remain unoccupied. To overcome the risk of re-invasion, something must immediately be done with the portion of land from which people have been resettled.

> “Mangaung must attune its orientation, posture and form as a significant, but small part of the much larger organism mutating into a developmental state, using the NDP platform to overcome Apartheid induced under-development asphyxia.”

Invariably, education regarding rights to land and the risk associated with land invasion provide the only hope for sustainable solutions against informality and land invasion. Communities need to be empowered about the options available and what the municipality is doing to address homelessness and landlessness and the consequences of land invasion. The consequences of land invasion may result in exposure to disasters or failure to observe municipal by-laws and the limiting of the pro-active provision of housing opportunities. Not surprisingly, therefore, the law imposes upon the municipality the obligation for enforcement of by-laws, which is an essential option, the benefits of which are not always fully understood when implemented.

The next aspect in terms of our framework of analysis relates to the actors, individuals and/or groups, who are critical to ensuring the implementation of the programme. Our contention is that, consistent with the developmental state trajectory, the municipality must assume leadership of development. But what variables attach to the requirement to ‘lead’? The first relates to the ability of the metro to cascade to the city level, the national aspiration contained in the national Vision as articulated in the NDP. The second aspect of leadership must be the recognition of the collective responsibility by ‘reform champions’ for the implementation of the programme. The latter applies as much politically as it does administratively. In all cases, effervescent effort must be made to hold individuals accountable for specific tasks and thereby expunge the risks associated with ‘joined-decision traps’. Our preference for the idea of ‘reform champions’ is an appreciation that “...it is much more difficult for a single leader to drive implementation, and often impossible to drive the institutionalisation of capability (Pritchett & Weijer: 38). Thankfully, the South African local government system has adequate checks and balances that efficaciously demarcate political and administrative accountabilities. It must be emphasised that the prospect for development and growth in the city is conditional upon the existence of a formidable developmental municipal institution.

It is essential to recognise that the development backlog the municipality must address, as it simultaneously endeavours to grow its economy, is monumental. However, the content of the development programme of the municipality reflects a bevy of strategic choices. A cursory perusal of the programme suggest that the

municipality has identified and weighed the trade-offs to make hard choices. Undoubtedly, every determination is a negation. Remarkably, there is a recognition that the social opportunity costs of not pursuing the current agenda would result in the perpetuation and prolongation of joblessness and the unsustainable dependence syndrome of the social security system. In proceeding in the present manner, the Metro has avoided the dangers of 'wishful thinking', that is, an overly optimistic perspective on municipal capacity that may lead to what Pritchett and Weijer refer to as 'a recurrent dynamic of failure and a capability trap'.

The above treatise is only based on limited aspects of the Metro's current development agenda. For example, nothing has been said about the admirably massive Airport Development Node which recently left officials from the Presidential Infrastructure Council in awe. Nor has any attention been given to the on-going discussions around the notion of a City Region. This is because the present adumbration has been circumscribed by a desire to gauge prospects for success, and not to produce a panegyric catalogue of Mangaung's development initiatives.

But what risk factors attach to these type of developments? Below we catalogue these along with the strategic qualifiers that serve as counterpoints to possible failures. These are dealt with in order of importance.

The first relates to personalisation of the present development agenda. The risk associated with this is that radical changes at the political level may result in the abandonment of the development programme as a new leadership may not want to be seen to have an agenda identical to that of the previous one. For purposes of sustainability and success, a radical change at political level may affect development. Accordingly, there is a need to navigate around continuity and change at political level.

The second risk relates to development being trapped between the Scylla of silo operations occasioned by a 'blue-eyed boy/girl' management style and the Charybdis of assigning to these strategic projects individuals serially requiring 'capacity building', and therefore unable to carry out projects on time, at the required quality and within allocated resources. Whereas capacity building or skills development is a positive input to institutional development, project implementation is not the place for experimentation. A total quality management approach that appreciates the dependencies between administrative units within the municipality offers the possibility to enhance individual and institutional integration and innovation, which may eliminate bureaucratic rigmarole. The use of individuals with proven capacity and experience as mentors to suitably trained longer-term replacements is required. A balance must be created to cater for both political vision and capacity for successful implementation, management, monitoring, evaluation and review. This can sometimes be effected quickly, and in some contexts takes longer than we would like.

> "Collectively, these developments will entail various housing typologies and provide wide tenure options to beneficiaries, such as ownership, rent, rent to buy as well as mortgage loan options within the same geographic space."

The third risk relates to lack of community participation and engagements. Absence of information always begets a state of confusion that makes ward councillors the target of community imprecation. A multi-media communication strategy, with related ward councillors at its core, must be in place for implementation over the entire life-cycles of all these initiatives. Granted that the various projects are at different stages of implementation, the strategy must adopt an asymmetric approach that relates to each project stage.

The fourth most strategic risk relates to possible sclerosis among development partners owing to parochial turf battles and jealousies. It must be noted that for the private sector, project success is essential to Brand promotion. Accordingly, brand fetish could alienate broader participation of a variety of private individuals in these initiatives, thereby limiting access to the financial resources available to the Metro. A clearer articulation of the variety of opportunities across the entire spectrum of development could empower the private sector to participate in mutually beneficial and individual brand-enhancing projects.

Beyond ANC conference palavers 'Project Mangaung' has to work. The foundational edifice upon which the present development trajectory is based, undergirded by nuances of the NDP, is firm. Only a little nudging by a sound intergovernmental system that will act as scaffolding is required. But development does not happen by chance. In appreciation of the complexities associated with the type of development approach the municipality has chosen, a change in mind-set will be required. It cannot be business as usual. Systems and attitudes may need improving. The long term nature of the development initiatives imposes an obligation upon present day practitioners to be mindful of the future. Everything should be done meticulously to ensure that the near future does not degenerate in an ecstatic howling of present day can-do paean. History and posterity demand that development practitioners act differently today. ■

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THINKING ABOUT UBUNTU IN THE JURISPRUDENCE OF THE SOUTH AFRICAN CONSTITUTIONAL COURT

A critique of the emerging cases

Over and above, Ubuntu has attempted to incorporate quality into our legal system. That attempt is characterised by reconciliation, sharing, caring, trust, harmony, respect and responsibility.

By Thato Vincent Rakatane

Ubuntu] is like an umbrella under which some people like to hide from rain, and also to shade themselves from the sun. But sometimes you need to fold it."[1]

The concept of Ubuntu has formed part of the formidable jurisprudence of the South African law. It has been correctly described by authors varying from Justice Yvonne Mokgoro and Justice Albie Sachs to Professor S.F Khunou and Professor Phillip Iya; and of course the list is endless. Justice Madala has correctly held that Ubuntu is an integral part of our law[2].

It is indeed correct that Ubuntu is only recognised when it is seen or when it is experienced, hence it is submitted that

It echoes Understanding and not vengeance

It emphasises Reparation and not Retaliation

It is indeed Ubuntu and not Victimisation and Hatred.[3]

At this stage it is appropriate to unpack the nature, content, extent, interpretation and the application of the concept and the principle of Ubuntu. Ubuntu assists us to shape a society which was deeply divided by hatred, fear, guilt and revenge.

Our task is to examine the features of Ubuntu apparent in case law in order to navigate the stormy waters in a manner that can be permissible both morally and intellectually.

Does Ubuntu have a place in the South African Legal System?

That the postamble to the Interim Constitution contained Ubuntu can be reasonably inferred from the manner in which most of the Judges employed Ubuntu in *S v Makwanyane*.

The final Constitution does not contain the principle of Ubuntu in express terms. Ubuntu is implied in the provisions of the South African Constitution. One can argue that the drafters of the Constitution had Ubuntu in mind during the drafting of the Constitution. For example when we speak of equality in terms of section 9 of the Constitution we are talking of Ubuntu.

The inclusion of Ubuntu in our legal system is indeed an inescapable and overarching achievement in and amongst other considerations pertinent to our democracy. Ubuntu has also been incorporated into Restorative Justice, i.e. the child justice system within the Child Justice Act 75 of 2008.

Ubuntu in the Judgments of the Apartheid regime

The judgements made by courts at the time of Apartheid were the antithesis of Ubuntu. Such judgments were the very epitome of unfairness, injustice, inequality and prejudice. Those judgments were indeed bad in every possible sense.

> "Are Ubuntu and Human Dignity opposite sides of the same coin? Does the employment of Ubuntu in the task of adjudication not transverse the legal principles pertinent to a particular branch of law within which an envisaged judgment is due?"

However, there were exceptions in relation to the judges in that bad system. The steadfast support of Ubuntu was evident in the judgements of Oliver Schreiner[4]. He was indeed an exception and his work cannot be overlooked. "He had very little material to work with, and yet he made so much out of it''[5]. He is indeed the greatest Chief Justice South Africa did not have. In the absence of a supreme Constitution he accomplished a great deal.

He refused to sit on benches reserved for "whites only''. Schreiner dissented in three sittings of the case of *Ndlwana v Hofmeyer*[6], and concurred with the judgement of Centlivres CJ, which set aside the legislation removing coloureds from the voting roll in the case of *Harris v Minister of Interior*[7].

The relevance of Ubuntu should be interrogated as well as the extent to which judges are allowed to use Ubuntu in their judgements.

Are Ubuntu and Human Dignity opposite sides of the same coin? Does the employment of Ubuntu in the task of adjudication not transverse the legal principles pertinent to a particular branch of law within which an envisaged judgment is due?

My concern is that judges use Ubuntu to push their personal agendas. If so, our task is to delineate the safeguards against such a perversion.

Is there an Ubuntu Mist in the Constitutional Court?

The multiple strands of conversation among all facets of our society are increasing in volume and intensity about the relevance and the extent in which the Courts of the land are permitted to use Ubuntu[8].

The Constitutional Court has in its painstaking judgements used Ubuntu in almost all cases emanating from all branches of our legal system. Judges are allowed to use Ubuntu within the framework of logic and morality. Ubuntu should not defy critical thinking and logic. Honest and critical thinking is still required of the judges[9]. Furthermore judges should be steadfast in protecting legal principles. Ubuntu should not be used to transverse the legal principles pertinent to a particular branch of law within which the contemplated judgment is due.

Ubuntu should be linked to various concepts such as ''mercy" and judges should approach issues before them with the spirit of Ubuntu.

It is evident from the judgment of Corbet JAin *S v Rabie*[10] that when the trial court decides the sentence it must blend it with the element of mercy according to the circumstances. It is also evident from the judgement of Cameron and Lewis JJA in *S v Nkomo*[11] that the substantial and compelling circumstances of the accused should be taken into account when deciding a sentence.

The Assessment: Does the Ubuntu Smile turn us on?

A critical assessment of the judgement of Skweyiya J in *Le Roux v Dey*[12] and the judgment of Mogoeng J in *The Citizen v McBride*[13] will assist us to deepen our understanding of the issues raised in this article.

Le Roux v Dey

This case concerned a delictual claim against children. Even though the judge did not refer directly to Ubuntu, it is evident that he approached the issues with the spirit of Ubuntu.

This can be traced to the contention that the mere fact that the delict was committed by children should change the adjudication mindset of that case. The learned Judge argued that children should be treated differently in our social structures. The Judge held that we must create different worlds for children so that they can make mistakes and learn from such mistakes. Children should be given leeway and held to a lower standard of accountability as we accept that they lack the emotional maturity and wisdom to clearly distinguish right from wrong.

It is my view that the learned Judge navigated the stormy waters quite correctly. He is indeed correct that adjudication should be in context. Even if Ubuntu is not patent, its spirit cannot be overlooked in the judgement of Skweyiya.

This judgment could possibly give rise to questions about whether or not the learned judge transversed the legal principles pertinent to claims of defamation.

The Citizen v McBride

Mogoeng J dissented from the view reached by his colleagues Ngcobo CJ and Cameron J that the statements which were made by *The Citizen* about McBride being a murderer and a criminal are protected by fair comment and therefore not malicious.

In his judgment Mogoeng J held that freedom of expression does not have to be malicious; it must not draw its force from insults or highly inflammatory language. Freedom of expression should not trump the intrinsic worth of another person. Human Dignity should always assume its rightful place even when freedom of expression enters the equation. The express violation of the rights of others is only permitted if it is within the Constitutional boundaries. On that note Mogoeng found that *The Citizen* waged a well-orchestrated character assassination campaign against McBride.

The Reconciliation Act and Ubuntu have set down the essential definition in which all South Africans should forge a glorious future as mapped in our Constitution. The espoused principle of Ubuntu is indeed based on mutual respect. We must not allow conduct which is bereft of Ubuntu, including adjudication. Our deportment in all respects should be governed by the unwaverin.g principle of Ubuntu.

> “We must create different worlds for children so that they can make mistakes and learn from such mistakes. Children should be given leeway and held to a lower standard of accountability as we accept that they lack the emotional maturity and wisdom to clearly distinguish right from wrong.”

After-thoughts: Where to from now?

I tend to share the sentiments of Mokgoro J that if the values of Ubuntu could be consciously harnessed, it could become central to the process of harnessing all existing legal values and practices within the Constitution.

Like Froneman J said in *Matiso v Commanding Officer Port Elizabeth Prison*[14], The Courts bear the responsibility of giving a specific content to the values and principles of Ubuntu in any given situation. In doing so the Judges are invariably creating the law. In opining, I hold that there is no need to regulate and legislate the usage of Ubuntu. The Judges should have the inherent responsibility guiding them in relation to the use of Ubuntu. Ubuntu should not cause us to lose sight of legal principles. Ubuntu does not at all make Judges immune from critical and logical thinking.

Conclusion

In view of the preceding discussion it is indeed evident that the issues around Ubuntu are not clear cut. There is a lot to be said, a lot to be done and a lot to be expected in future. Over and above, Ubuntu has attempted to incorporate quality into our legal system. That attempt is characterised by reconciliation, sharing, caring, trust, harmony, respect and responsibility.

The contribution of Ubuntu to the development of Constitutional Jurisprudence in a democratic South Africa cannot be overlooked or jettisoned. The application of Ubuntu in our land has indeed improved the quality of our life in the context of justice and human rights. It is indeed a trite truth that the essential component of transformation is to cultivate a judiciary that embraces the jurisprudence dictated by Ubuntu and the Constitution.

All facets of our law are continuing to be impacted by the beneficial effect of Ubuntu. I endorse the argument that our Constitutional Court is the second to none in growing the very imperatives of our Constitution. We nourish the hope that some, if not all, members of the bench have the insight and the willingness to cherish Ubuntu in a positive manner. ■

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Automechanika Middle East 2014	Dubai, UAE 3-5 June 2014	Automotive sector	www.automechanikagulf.com	3 December 2013	Ms Batseba Morudi Tel: 012 394 1195 E-mail: bmorudi@thedti.gov.za Ms Shakira Motan Tel: 012 394 1895 E-mail: SMotan@thedti.gov.za
Feira International De Angola (FILDA) 2014	Luanda, Angola 15-20 July 2014	Agriculture and Agro-Processing; Logistics and Infrastructure; Construction (Civil); Energy (Oil and Gas); Mining and Capital equipment; Automotive Components; ICT; Fisheries; Electro technical equipment and Boatbuilding	www.fil-angola.co.ao	14 February 2014	Ms Tintwsalo Faith Marima Tel: 012 394 1019 E-mail: TFMarima@thedti.gov.za Mr Frank Motloung Tel: 012 394 3898 E-mail: FMotloung@thedti.gov.za

Address the historical injustice of African land dispossession now

Government should consult widely to formulate a practical position and feasible strategy to effect significant land redistribution at a far faster rate, before the issue explodes in the face of South African society.

By Ike Moeroe

Land is not just an economic resource, but it is also a symbol of statehood, personal dignity and a source of individual pride. It determines our identity and belonging in a society. Over many years of history, land has occupied a central position on who rules the society, and who is ruled in the society. Its possession or dispossession has led to conflict within societies, has driven nations to war. It has determined the power of nations and the wealth of individuals.

Currently when the issue of land restitution is discussed, it evokes emotions, and threatens to open the sores of our past wounds. The recent land related events in Zimbabwe are used in the cautious stance of the South African government, and by the impatient radicals alike, to justify their positions.

However, one observes that both the cautious and radical positions are coming two decades too late. Had the government been cautious in the past, but focused on effective land

restitution, by now it should have convinced those who hold land in their hands, having secured it through unfair apartheid racist colonial machinations, that it would ensure peace, justice and stability to free land for restitution.

Equally, those who call for restitution without compensation should have spoken earlier, with clean hands and heads, of the desperate need to attend to the critical issue of addressing the historical injustice of the African land dispossession by colonialists over the 600 years of colonial incursion in our country, South Africa.

However, the 100th year commemoration of the colonial statutory formalisation of the historical injustice of the African land dispossession, enacted by the Union Parliament as the Natives Land Act of 1913, gives us a window of opportunity to take an in-depth look into the felony and find new ways to address it effectively.

Historical Background of Colonial Incursion

When we focus on the greatest betrayal of our people by the 1913 Natives Land Act, we need to appreciate the enormity of the criminality visited upon indigenous South Africans by our colonisers.

In that vein, we have to develop a historical understanding of how religious conflicts far from the borders of the present South Africa, the desire to seek further profits from trade, and the development of capitalist economic relations, brought colonialism to the doorstep of our country.

The Muslim-Christian wars that reigned in Europe, Asia and the middle East, which in essence were the conflicts driven by a world outlook contestation, to underpin the growing dominance of trade and accumulation, brought about the need to seek new ways of travel, and pushed the boundaries of seafaring.

In this struggle, driven by nascent capitalist accumulation, we were about to experience the beginning of a very violent series of events leading to our systematic dispossession and oppression over centuries

Bartholomew Diaz stumbled on what he called the Cape of Good Hope in 1488, in an event that began a process that would not only disrupt, but effectively destroy the natural development of the economic, social, political, knowledge and institutional processes of the indigenous people, in what was to become the present day South Africa.

We should also consider whether what we have done during this window of opportunity has done much to reverse the dastardly indignity of our dispossession. We should make a very frank assessment of our political will and ability to face our demons and reclaim for Africans what rightly belongs to them.

The first blood in our land dispossession was drawn by Bartholomew Diaz, who shot dead an indigenous khoikhoi with his own bow and arrow, during an altercation over barter trade. The bow and arrow, a weapon that our people used to hunt wild animals for food was used to murder one of us, by a stranger on our land, when we questioned the value of exchanging our cattle for mirrors, spices and buttons.

> “How is the state planning to deal with the tribal trust lands, which were allocated through the policies of our colonisers, to keep us in certain areas, while entrusting the ownership of that land to traditional leaders and not communities?”

Ten years later, another Portuguese sailor, who belonged to the elite of Europe, during the development and expansion of capitalism, in the so-called “Age of Discovery” went further to “discover” the coast of the present day Kwa-Zulu Natal, which he named Natalie (Christmas in Portuguese), and the Fish River, which he also named Rio Infante.

Names are given by those who control and have something in their possession. The intention therefore is established that Vasco Da Gama, the seafarer, viewed what he saw as his or the possession of Portugal.

Jan van Riebeeck and the Colonial Settlement

However, the systematic dispossession of Africans in our own country gained momentum with the arrival of a Dutch seafarer, Jan van Riebeeck, in 1652. What is ironical about his arrival, is that his intention has often been presented in history as simply to establish a half way post to enable the ships of the Dutch East India Company to replenish their supplies. What is less frequently reported is another documented piece of history: that in 1650 he had already proposed selling the hides of South African wild animals to Japan.

Now in both criminal and commercial law, a person can only sell or trade with what belongs to himself/herself. His business was not only about hides, but he established himself as the commander, gained knowledge of the area, its topography, botany, zoology and other knowledge systems from the Khoisans.

He went on to plant various types of plants, changed the environmental integrity of the Southern part of the present day South Africa forever, in a step that ensured the beginnings of the colonial surge to occupy the rest of the present day South Africa, and Southern Africa, to a very large extent.

Johan Anthoniszon van Riebeeck, known as Jan van Riebeeck, in a well thought-out plan to consolidate the colonisation of present day South Africa, and the land dispossession of the African people, released some of his fellow seafarers from their contracts with the Dutch East India Company, and gave them permission to annex pieces of land for farming and the establishment of the Free Burghers Republic.

The further unfolding of capitalism in Europe, coupled with the ideological turmoil of those times, manifested in the religious rebellion of the French

Huguenots in 1688, saw a flood of European arrivals that put stress on land ownership, due to the need for pastoral and residential land. The indigenous people were pushed further away and their means of subsistence were systematically diminished.

This increasing pace of colonisation and land dispossession, while strengthening the implantation of capitalist economic structures in the DNA of our new developing economy also heightened the potential for conflict.

Skirmishes became common between African peoples and the colonisers, as Eurocentric laws deepening the dispossession of Africans in their own land began to take the form of colonial ordinances, effectively proscribing ownership of land by Africans beyond particular borders designed at the whim of the colonialists.

These ordinances, formulated to the advantage of the colonialists, were based on European ruling class principles of governance, heavily laden with theocracy. They completely disregarded our African principles of governance. This was further complicated with the arrival of slaves, who practiced the Muslim religion, imported from Indonesia and Malaysia.

When the power of the Dutch East India Company began to diminish, the British influence increased in the Cape Colony. This was during the acceleration of the industrial revolution in Europe, and Britain needed raw materials.

The Impact of the Industrial Revolution in South Africa

The industrial revolution in Europe saw the British exploring and conquering colonial possessions to extract raw materials for the upkeep of the colonial centre. In this campaign, Britain sent settlers to South Africa in 1820, where they consolidated the Cape Colony. This pushed the early European arrivals further into the hinterland. It is rumoured they left in protest against the British administration, but curiously it appears that they were armed by the British administration.

This phenomenon led to full blown wars of resistance against the colonialists who were rapaciously seizing land and using both violence and ordinances to subjugate Africans. These wars played havoc with the cohesion and integrity of Africans.

A huge number of well-built males were sent to war, where they lost their lives. European diseases also took their toll on African communities. Intra-African wars happened because of the displacement of people by the marauding colonialists, and also because of the diminishing subsistence farming and grazing land. The brute force of colonial land dispossession and the subjugation of the colonised had finally fully arrived and exploded in our country.

> “This reality tells of a still fractured society, in which those who benefitted through colonial relationships over the colonised are not working with government to effect transformation, and government seem to be over-cautious in enforcing the requirements of transformation on them.”

The contradictions amongst the colonisers, based on our land dispossession, ultimately led to the two Anglo-Boer Wars. The first was in the Transvaal from 1880 to 1881, the second from 1899 to 1902. This last war between the colonisers ultimately confirmed our defeat as the colonised, and led to the establishment of one country, colonised from the shores of the Cape to the banks of the Limpopo River.

The Impact of the 1913 Natives Land Act

Our status as the colonised who had no say in the administration of our country and the ownership of our land was formalised in the 1913 Natives Land Act, which restricted our ownership of land in our country to 13% of the land mass of present day South Africa. This was consolidated in the 1926 Land Act.

Since then until the 1994 breakthrough, which allowed us an opportunity to redress this historical injustice, we were not considered citizens, and could not own land in 87% of the landmass of our country of birth. This status quo was enforced with brutal enthusiasm by successive colonial administrations. The fact that statehood is based on the control of the land was clearly understood by racist colonial administrations in this regard.

Our land dispossession has been enforced systematically and systemically through 600 years of colonial incursion into our country. It ultimately left us strangers in the country of our birth, where huge modern structures today stand in celebration of economic achievements in which we the indigenous peoples can scarcely claim ownership.

Just about two decades since our struggles led to the 1994 democratic breakthrough, which swept the African National Congress into power, the latest Land Audit, by the Surveyor General, puts the ownership of land by the state at 14%.

This raises a question: Can the state, which has the gigantic moral, political and economic responsibility fundamentally and radically transform the old racial order and hierarchy effect transformation without full control or at least a reasonable control of land, a primary resource of economic activity and development?

The Surveyor General’s report also states that 79% of the currently audited land parcels is in private hands. But disappointingly it does not state the percentage of that owned by Africans who were violently dispossessed by colonialism and formally denied by the Natives Land Act of 1913. The reason given by the Surveyor General Mmuso

Riba, as he said, is that: "the database no longer classified people in racial groups".

This again raises another question: How will the state monitor and evaluate the impact of its policies to ensure that the historical injustice of land dispossession is effectively addressed? Further, how is the state planning to deal with the tribal trust lands, which were allocated through the policies of our colonisers, to keep us in certain areas, while entrusting the ownership of that land to traditional leaders and not communities?

Land is not just a symbol of statehood, and a determination of one's identity and standing in the society, but it also has emotional familial ramifications, and indeed serves the purpose of economic activity and individual wealth generation. How can people in these tribal trust lands, contract commercially with their pieces of land when they do not own them?

Then there is the issue of the 7% of the land whose ownership could not be established. That this land is in the former Transkei and Ciskei bantustans, which experienced heroic and fierce wars of resistance against colonial land dispossession, means one has to be very cautious in prematurely linking it to private or state ownership.

This situation is further complicated by the fact that the bantustans, which earlier were administered by apartheid central government proxies, were pockets of extreme corruption, often epitomised by the rulers of those apartheid-sponsored sham independent states.

What also concerns one is that government seems to be unable to make a clear distinction between food security objectives and the strategic objective to redress the historical injustice of the African land dispossession. The Minister of Rural Development and Land Affairs, Gugile Nkwinti, seemed to bundle the two issues together when he addressed Parliament.

He spoke of the 82 million hectares of agricultural land, and pointed to the assumption that most of it is in the hands of white commercial farmers. He indicates that by 2014, 30% of it should be owned by black farmers. It is a welcome intention. But it raises another question: Is government only focused on the transformation of agricultural land, or land in any form, even primary land in urban and coastal areas, to redress the historical injustice of African land dispossession by the colonialists?

The Current Challenges of Land Restitution

There are just too many questions which one feels are not looked at in terms of the issue of land transformation to address this historical injustice. This becomes evident in the terms that are thrown about to address this issue, and do not find resonance with the current reality and practicalities of the dire need for transformation in this context.

Government has moved from the position, or so it seems of "willing buyer, willing seller", to something like acquisition through a market-related price. But a market-related price in a capitalist economy can easily be manipulated depending on the financial influence and political connections of the owner.

The impatient segment of the youth and the middle class, which sees quick financial benefits in the easy acquisition of land, has coined slogans such as "Land Restitution Without Compensation". They link this to the fact of the brutal African land dispossession by the colonialists. The response of government has been to declare that "there shall be no forceful land acquisitions".

One feels that the South African state is gradually getting out of tune with the impatience of the society, or those livid pockets of the society pertaining to issues that desperately need to be fundamentally transformed. There seems to be a heinous hand hanging and threatening the exercise of political will for fundamental transformation.

Conclusion

Everything that ought to have gone through the process of fundamental transformation, be it education, economic, mining patterns ownership, labour relations and their regulation, spatial integration, society cohesion, land and effective state transformation to transform the entire society seems to be two decades late!

Indeed a lot has been achieved through social reforms that have given people economic housing, free electrification, water and sanitation, and social grants. But very little has been achieved by the private sector, a major beneficiary of the racist colonial policies. They ought to play a pivotal role in ensuring entry into economic activity through mentoring new entrepreneurs and creating jobs.

This reality tells of a still fractured society, in which those who benefitted through colonial relationships over the colonised are not working with government to effect transformation, and government seem to be over-cautious in enforcing the requirements of transformation on them.

If the government is ham-strung from thinking innovatively to ensure that fundamental transformation is effected in other easier areas, then it can certainly not move on the critical, sensitive, emotional and seemingly explosive issue of land restitution.

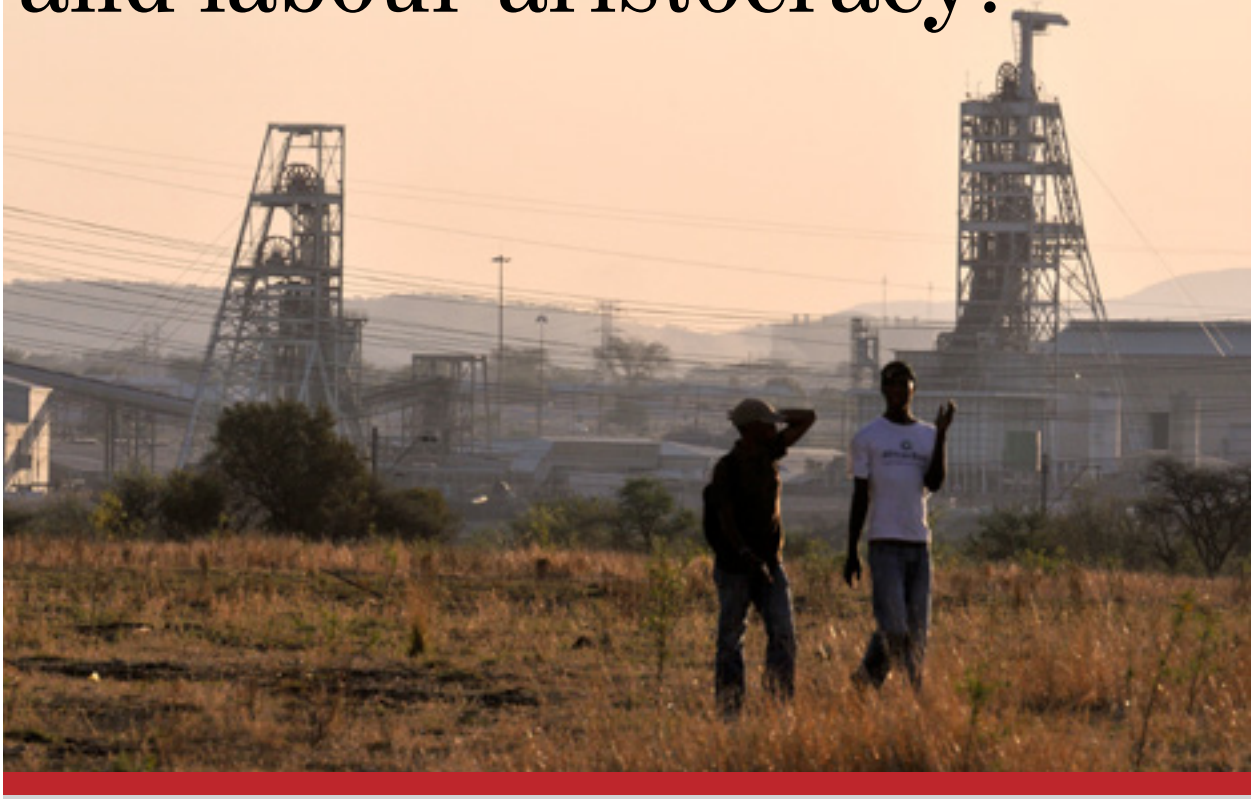
Government should consult widely to formulate a practical position and feasible strategy to effect significant land redistribution at a far faster rate, before the issue explodes in the face of South African society.

For starters, the South African government should intervene to ensure that with immediate effect, no land parcels, in cities or rural areas, for residential, commercial or agricultural use, held by Africans, should be repossessed, by any financial or lending institution.

The majority that has borne the indignity of land dispossession voted for the ANC, and will certainly vote for the ANC with an increased majority in the forthcoming elections. It is the ANC that must effect the fundamental transformation of land ownership patterns. This might be the last window of opportunity the vast majority of South Africans, emerging from racial oppression, will give the ANC government. ■

THE MARIKANA MASSACRE: A CHALLENGE TO THE BLACK GOLD BASED ECONOMY

Exposure of state coloniality and labour aristocracy?



Mines have always earned their profits at the expense of black labour which gave birth to the concept of "black gold".

By Sibonginkosi Mazibuko

South Africa is home to a plethora of minerals. 89% of the world's reserves of platinum and other mineral reserves such as gold, diamonds, manganese, vanadium, chrome, zirconium, fluorspar and nickel, and coal are found here[1]. It is the mining of these minerals - from the 1830s in the green belts of KwaZulu-Natal, to Kimberley in 1867 and Giyani in Limpopo in 1875, Barberton in Mpumalanga in 1883, gold in the Witwatersrand in 1886 to present-day Mohale (Krugersdorp) - that transformed the South African colonial economy from a largely agricultural-based economy to one of industrialisation[2]. As the backbone of the South African economy[3], which in turn has as its own backbone the cheap African labour, mining dominates the African industry and the literature on African industry in general[4]. The killing of workers at Marikana adds to this long history of mining in South Africa.

The massacre of Lonmin's 34 Marikana mineworkers on Friday, 16 August 2012 is significant in many ways. For instance, the poor living conditions in areas adjacent to mines and the rural spaces from which this labour largely originates are defined by mass poverty, unemployment and severe inequalities[5]. The Marikana incident therefore poses a number of questions including whether it heralds the challenge to the black gold-based economy, as well as whether it exposes state coloniality and presents a challenge to labour aristocracy in South Africa.

Background to the theory of "black gold"

The South African mining industry

is founded not only on minerals, but also on cheap African labour recruited from the country's rural areas and neighbouring states[6]. The defeat of the Africans during the colonial wars did not only mean political subjugation but also that the African's entire life was to change fundamentally. Having lost their land, male Africans were forced to leave their land-based livelihoods to "sell" their labour power in the mines. To achieve that end, various forms of taxation[7] and legislation were passed against Africans[8], thus creating a form of forced labour[9]. To this day, black people cannot earn any meaningful living from the land. They do not even own the marginal lands they occupy – which is governed through a system of neo-feudalism[10].

In the mines, these men were further subjected to conditions of semi-slavery. They were forced to live in same-sex hostels, paid a pittance and taught a new 'language' of fanakalo[11]. The fanakalo lingua franca served to rank all non-European languages as inferior, and therefore also those that speak those languages, and to maintain the "enunciative privilege" of western modernity"[12], to entrench colonial projects of oppression in terms of which indigenous peoples were displaced[13]. Africans therefore had to pay with their own dignity to accommodate settler-colonial interests supported by a white labour aristocracy as all workers of European descent were "accorded a privileged status"[14]. For over a century therefore – since the start of the colonial mining industry – the exploitation, displacement and oppression of African labour in particular has been synonymous with the exploitation of the country's mineral resources.

Through the protected exploitation of African mine labour, it was not just the matter of the profitability of mining minerals, but also employing African workers in itself was a bonus. Mining was sustained by the semi-slavery of the conditions under which those workers were employed and lived in the mines. These still exist[15]. Thus mines have always earned their profits at the expense of black labour which gave birth to the concept of "black gold".

Mining further politicised poverty through the concept of the "poor white problem"[16] in South Africa in the 1930s when farmers suffered stock loses as a result of rinderpest. As a matter of fact when natural calamities broke out, they were regarded as bad only for the white population but accepted for the indigenous peoples as such events allowed for their uprooting to sell their labour in the mines and white farms[17]. But again, competition with black labour became intolerable among the white workers. As a result, laws such as the Wages Act[18] and Civilised Labour policy[19] were introduced. Legally white workers were to enjoy first preference for employment everywhere and at higher wages. Similarly when white farmers needed assistance, they would simply send their trucks to round up labour from what had come to be known as African reserves[20].

"Black gold" therefore defines a system under which the commodification of South African black labour power did not follow the usual capitalist route where labour is "freely traded" in the market. On the contrary, various pieces of legislation were used to "retard opportunity for men to progress up the ladder of skills and would for a very long time establish that the barrier of colour became also a barrier to advancement"[21].

> "Africans therefore had to pay with their own dignity to accommodate settler-colonial interests supported by a white labour aristocracy as all workers of European descent were "accorded a privileged status".

Although the black labour movement is traceable as far back as shortly before the Second World War[22], it was only in the 1980s that black labour started to enjoy legal protection in the South African labour market. The official recognition of the National Union of Mineworkers (NUM) in 1982[23] in particular saw some improvements in the miners' working conditions. Similarly, the unbundling of many mining houses in the 1980s gave birth to some African elites as mining magnates. But still, this did not mean the end of exploitation for many workers, particularly mining workers.

State coloniality

The Marikana incident has not only drawn attention to the unbearable working conditions in the mines and adjacent areas; it has also exposed the colonial mentality (coloniality) within the state machinery. The term 'state coloniality' can justifiably be used to refer to a situation whereby the post-colonial state resembles its former predecessor - a state bent on continuing the domination of the working classes using some of the methods employed by colonialism. Coloniality should therefore be seen as a "fundamental problem" in a post-colonial state[24]. It comes out as inequality and economic injustice[25] . It also means a continuation of colonial thinking and showing relations of exploitation and domination[26]. Coloniality reflects the condition again whereby the struggles for freedom and emancipation are defeated and end with democracy[27] instead of freedom, equality and justice[28]. It means being trapped in the structures of colonial, capitalist and traditional feudal domination[29].

The state, "a product and manifestation of the irreconcilability of class contradictions; an organ of class rule for the oppression of one class by another …"[30] and thus a body that has a monopoly over legitimate violence in a given territory"[31], means that while unleashing crime and violence on non-Western persons in the postcolonial state[32], life continues in the same manner as in the colonial state but now accommodating the local elites. In such a situation, there is no transformation in the functioning and purpose in state organs as law and order continue to be the key objectives in governance.

The post-settler colonial parliament has kept crucial laws such as the common purpose laws to punish people who act as a group to show dissatisfaction. In the case of the Marikana mine

workers this law was used to charge the miners with common intent to commit murder. Characteristic of coloniality, the South African post-colonial state did not hesitate to send in the security forces in the form of armed police in a situation of labour dispute in the mines. Workers got crushed mercilessly and further charged with the murder of their own co-workers massacred by the police. This killing showed little, if any, difference between the settler-colonial police force and the police in a free state as observed for example by Samora Machel:

"The people do not in fact distinguish us from the colonial army by the colour of the skin or the vernacular or words we use. Our attitude towards the masses and our respect for them is the touchstone that marks us off from the troops of aggression"[33].

Labour aristocracy

The theory of labour aristocracy is used to explain the "bourgeoisification of the working class" in England at some point in history. It is explained as "an ideology of a small, relatively privileged layer of workers which uses its grip on the trade unions and labour party to perpetuate the dominance of pro-capitalist ideas within the working class"[34]. It can also be explained as a concept that was used to refer to the 19th century skilled workers who "accepted capitalist relationships and restricted their political efforts to securing limited gains within existing social and economic order"[35]. Today, these workers represent a well-paid turned liberal and paternalistic section of workers that has access to employers' concessions to help "sustain the authority of the employers" and has become conservative reformist in character[36]. As activists, they also enjoy relative privileges compared to other workers: thus the divisions within the working class[37].

Labour aristocrats fail to educate workers properly. If the workers understood that the state has monopoly over the use of violence, they probably would not have confronted the state security forces the way they did. Such an action was a direct challenge to the state capacity. On the other hand, the labour aristocrats were concerned about saving their leadership positions within trade unions by fraudulently increasing worker-membership[38]. The fact that when the Marikana workers "revolted" they first turned against this leadership is a sign that worker-docility can no longer be a reliable means to power in South Africa. The workers have seen their comrades climb the political ladder and disappear in the political world of the rich.

> "Coloniality reflects the condition again whereby the struggles for freedom and emancipation are defeated and end with democracy instead of freedom, equality and justice. It means being trapped in the structures of colonial, capitalist and traditional feudal domination."

Conclusion

Mine workers have always found themselves under the conditions of semi-slavery while the mining houses have always yielded super profits through exploitation. Over the years, African mineworkers have been treated that badly. It took the Lonmin platinum mine workers in Marikana to realise the extent to which the workers have had enough. That violent outbreak should therefore be seen as an explosion of the long-suppressed grievances against working conditions in the South African mining industry. The bravery of those mineworkers has exposed the conditions of state coloniality and labour aristocracy under which the country's wealth continues to be extracted. ■

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In pursuit of unity and cohesion

While democratic centralism may be beneficial to an organisation, excessive centralism must never be embraced and practiced in any organisation that claims to be democratic in outlook and orientation.

By Nthando Ntlemeza

One of the interesting quotations attributed to Arthur Henderson reads:

The forces that are driving mankind toward unity and peace are deep-seated and powerful. They are material and natural…

Yet history shows that negative forces and tendencies which perpetuate disunity among people and in their institutions have been defining features of human relations in many parts of the world. Some claim that this remains a reality. Roxanne Lalonde confirms this when she says:

The political and social climate that prevails in the world today emphasises difference, disunity, and destruction rather than the qualities of unity and productive and constructive energy that are required to sustain human societies[1].

People who converged at the people's congress in Kliptown in 1955 made a similar observation about the situation in South Africa at the time; hence they decided to commit themselves to developing a unity-promoting programme behind which they would unite all South Africans. This is the programme which was consolidated into the *Freedom Charter* – a document that would guide the liberation struggle for many decades. Values of unity enshrined in the Freedom Charter also find expression in the Constitution of the republic and thus form the foundation of our constitutional democracy. Like the patriots who converged at the Kliptown's Congress of the People to unite people under the theme *South Africa belongs to all who live in it, black and white,* we must unite all South Africans behind the vision of building the non-racial, non-sexist, united, democratic and prosperous society envisaged in the Freedom Charter. To unite people behind this vision, a united organisation is required.

Historicising the search for unity

A mission to unite South African people and build an inclusive society based on civilising human values was developed by our forebears – heroes and heroines of the struggle – who fought not because it was fashionable to do so or because they sought to attain material benefits for themselves, their families and friends. Instead, they joined the struggle to build an inclusive and civilised society because they were not prepared to accept a governing arrangement that was premised on the exclusion and oppression of the black majority. In essence, these freedom fighters struggled for the eradication of the racial discrimination and oppression which prevented the majority of South Africans from climbing up the political and economic ladder in society.

During the struggle against racial discrimination and oppression, the ANC attracted many freedom fighters into its ranks because it symbolised a unifying force and a collective voice against the evil perpetrated by colonial and apartheid forces. It was guided by a collective belief that a high degree of political understanding would be achieved when political organisations fighting against the system of apartheid colonialism forged stronger ties between themselves and the ordinary

people[2]. Hence, it rallied all democratic forces opposed to the system of oppression and exploitation behind a common vision and the programme of action which resulted in the demise of the apartheid regime in 1994. In good and bad times during the liberation struggle, leaders and members of the ANC always emphasised the importance of unity and cohesion in the ANC because they understood the significance of both these qualities in a movement leading the revolution.

Projecting an image of a united and cohesive organisation does not necessarily mean that ANC members are blind to internal contradictions. Neither does it mean that we are hell-bent on hiding challenges facing the organisation. In fact, we know that contradictions are part of the underlying reality of any organisation. Literature and practical experience tell us that these contradictions cannot be resolved by purging some of the members. Instead, contradictions can be resolved through a more intense struggle within the organisation which takes the form of robust engagements[3]. This is the angle from which debate on unity and cohesion should be approached. In other words, debate ought to be used as a platform for the organisation to devise ways to resolve internal contradictions with a view to unifying members and structures as a mechanical approach may not necessarily yield sustainable unity.

Why was ANC formed in the first place?

The ANC was formed to unite African people in a powerful and effective instrument, which would be used to secure their own liberation from all forms of discrimination and national oppression. Over the years, the ANC has evolved into an organisation which embraces and champions values of non-racialism and non-sexism. It remains the task of this organisation to mobilise all the people in society who objectively stand to gain from the victory of the national democratic revolution.

At all times, policy cohesion and organisational unity were always the starting point. The constructive manner in which leaders and members of the organisation engaged each other entrenched the unity and cohesion of the organisation. As a result, ours developed into a formidable force capable of leading the struggle for fundamental change in society.

The dialectics of organisational life

The basis for the development of an organisation is an interaction between different components of that organisation[4]. This interaction is inevitable in associations and institutions of human beings because by their nature human beings are unique and view things differently because of their different interests, traditions, experiences and understanding of issues[5]. This is so even when human beings are members of the same organisation. However, human beings may interact only to the extent that they form part of the same whole in which each is as necessary and imperative as another. Dialectically speaking, any change is a consequence of interaction between parts of the same whole. In organisations and society, human beings are at the centre of interactions which cause change; hence Holz states that "…human beings are not the helpless objects of a fatalistic historical process, but are always the active subjects of history..."[6].

Sciabarra defines dialectics as:

…the art of context-keeping. It counsels us to study the object of our inquiry from a variety of perspectives and levels of generality, so as to gain a more comprehensive picture…[7].

One of the powerful revolutionary thinkers of contemporary times, Mao Tse-tung, said some people think that once people join an organisation they become "saints with no differences or misunderstandings" on the issues because of their mistaken belief that organisations are monolithic and hence there is no need for any talks about unifying members and leaders of the same organisation[8].

Contradictions occur everywhere in nature, like the forces of attraction and repulsion inside an atom. Organisations are no exception because frank and robust engagements within the organisation show that forces of attraction and repulsion inside the organisation are very much at play. Dialectical materialism teaches us that organisations reflect contradictions of a societal environment in which they exist and operate. On this, Sciabarra says:

Society is not some ineffable organism; it is a complex nexus of interrelated institutions and processes, of conscious, purposeful, interacting individuals – and the unintended consequences they generate.

Sciabarra draws our attention to the nature of societal dynamics which play themselves out in organisations. All revolutionaries are supposed to know this reality. Revolutionary theory which is an approximation of reality serving as a guide to action requires all revolutionary organisations to adopt this approach which according to Mao Tse-tung:

means being analytical about everything, acknowledging that human beings all make mistakes and not negating a person completely just because he has made mistakes[9].

Mao Tse-tung reminds us that there is no human being who is infallible. "Lenin once said that there is no single person [anywhere] in the world who does not make mistakes." This means that making mistakes is part of human nature. Therefore, human nature dictates that even revolutionary leaders may make mistakes; hence a revolutionary organisation "…needs patient and prolonged training of leaders through the many twists and turns, the victories and setbacks[10]."

However, if the repeated and stubborn mistakes of some members bring the organisation into disrepute this may be sufficient grounds for the organisation to act against the culprits. Be that as it may, dialectically opposing ideas and views are to be expected in ideological and policy engagements in a revolutionary organisation. Hence, advocates of mistaken ideas and views need not be negated. Instead of negating a person for expressing certain ideas and views, Mao Tse-tung says that we must "…wage a struggle to rid him of his wrong ideas [and] proceed from good intentions to help him correct his mistakes"[11].

What Mao Tse-tung emphasises is that any mistaken views advocated by members of a revolutionary

organisation must be corrected through means commensurate with building members as it cannot be the task of a revolutionary organisation to destroy some of its members or leaders. However, mistaken ideas and views should not be confused with opposing views – which may enrich the organisation by providing a multiplicity of views for discussion[12].

Like all other social objects, organisations are (to a large extent) shaped by the diverse views expressed within the organisation. In many cases these views are manifestations of the internal contradictions[13]. This means that the identity, growth and development of an organisation largely depend on the internal interactions within it. Central to intra-organisational interactions is the exchange of ideas and views among its members.

At the 60th anniversary of the South African Communist Party in 1981, President Oliver Tambo (by extrapolation) distinguished diametrical opposites from dialectical opposites. In particular, he emphasised that (unlike diametrical opposites) dialectical opposites are mutually reinforcing imperatives of the struggle, thereby reaffirming a long-held view that struggle and unity of the opposites are the fundamental concepts of dialectics. Once people view an organisation from this angle, they know and understand that only when constituent parts of the same whole are active and fully functional can unity and harmony within that whole be achieved.

Relationships between constituent parts of the same whole are not always without challenges and complications. In the case of revolutionary movements, this relationship can be viewed as contradictory. This may be the case because, while leaders are supposed to lead the organisation and its members, members must ensure that leaders provide correct leadership to the organisation and its members. It is members who resolve those contradictions in the structures which cannot be resolved by the leaders.

Given the dialectical nature of a relationship between members and leaders of a revolutionary organisation, failures on the part of leaders may also be attributed to the members. This is the case because members have a collective responsibility to ensure the proper functioning of the organisation. Only when they discharge this responsibility will members be able to determine if those at the helm are still on track. In fact, under normal circumstances leaders who are revolutionary in outlook should voluntarily subject themselves to performance appraisals. These should be geared towards ensuring that the centre is strong, as revolutionary theory tells us that if the organisational centre does not hold, many centres will emerge. This can cause confusion, information gaps and tensions which may fertilise the ground for factionalism to develop, grow and intoxicate members at all levels of the organisation.

Factionalism requires members to be more loyal to the factions than to the organisation; hence leaders and members of factions are even prepared to act in a manner that threatens the existence of the organisation they claim to cherish. Faction loyalists do not believe that revolution can be entrusted to the hands of people who are not members of their factions. This means that factionalism produces members who regard themselves as 'super revolutionaries' who are ordained to influence the direction of the organisation, even if their approaches have the potential to pull the organisation into the bottomless abyss of self-destruction. Failure to act decisively against factionalism within the ranks of the organisation will pose a serious challenge to democratic centralism – a fundamental principle which is supposed to enhance unity and cohesion of a revolutionary organisation. While it happens to be one of the forms of centralism, the principle of democratic centralism is different from other forms.

On the principle of democratic centralism

Democratic centralism is often associated with revolutionary organisations. This principle guides processes of decision making. While decisions in these organisations can be influenced or taken at different levels, the principle of democratic centralism guides that process. In terms of this principle, decisions of higher structures bind all constituent and ancillary structures of the organisation. In other words, all component structures, including those which may have held contrary views on the matter, must accept the decisions of higher structures.

Some commentators argue that a rule which requires lower structures of an organisation to accept the decisions of higher structures leads to lop-sidedness and over-centralisation – which stifle the expression of views and suppress dissent. With due respect, this argument cannot be accepted. This is so because instead of taking democratic centralism comprehensively this argument overemphasises the centralising aspect, whereas if taken holistically the principle becomes more democratic.

Some people associate the principle of democratic centralism with "command and control structure". This view is very much mistaken. Democratic centralism as Karat argues embodies collective will and purpose[14] - not commandism. In other words, this principle includes 'freedom of discussion' and 'unity of action'. The democratic aspect of the principle embodies the freedom of members of the organisation to raise and discuss matters of policy and direction. The principle does not provide room for the use of coercive measures to settle ideological and policy issues as these issues are resolved through discussions and persuasion, instead of compulsion and intimidation. In fact, coercive measures are not only ineffective but are harmful to peaceful coexistence in the organisation[15].

While democratic centralism may be beneficial to an organisation, excessive centralism must never be embraced and practiced in any organisation that claims to be democratic in outlook and orientation. Cautioning against excessive centralism, Slaughter says:

… [an] attempt to resolve the internal crisis, based on excessive centralism and factionalism, will have serious consequences for the revolutionary party[16].

A correct balance between democracy and centralism is needed. The relationship between the two tends to change with changing

objective conditions. As our organisation operates under legal and democratic conditions at the current political juncture, the pendulum must necessarily swing towards greater freedom to discuss political and socio-economic issues within structures of the organisation with a view to create a common understanding of the issues.

Primacy of discussion in an organisation

In a revolutionary organisation, constructive engagement should be encouraged within the context of promoting internal democracy because only through open engagement will members be able to raise and analyse challenges of the time and devise measures that are necessary to address the challenges. When internal debate is neither allowed nor tolerated, some members may find platforms outside the formal structures and processes to express their own views. Once this happens, the unity and cohesion of the organisation will be badly affected.

Through robust and constructive debate, human beings influence each other. This equally applies to members of the ANC and its alliance partners. At all times, members and leaders of an organisation with a revolutionary outlook should be inspired by Voltaire who, in the spirit of promoting discussion and debate, once said "I disagree strongly with what you say, but I will defend to the death your right to say it."

Hence, our organisation must create an environment which is conducive to their members raising their political views, albeit within the parameters of organisational discipline – something that may also assist in exposing those who have a habit of not following a party political line. In this regard, we should be inspired by Lenin who was firm and sharp in defending the party political line and organisational discipline. But, Lenin did not defend the party line because of any personal ambition or dictatorial habits on his part. Instead, Lenin was determined to prevent his revolutionary organisation from being over-run by irregular troops of the revolution[17].

What is to be done?

In pursuing unity and cohesion within our organisation, we do not envisage a monolithic organisation. Instead, we seek to salvage the multi-class character of the movement because we know and understand that in any broad movement such as the ANC differences are to be expected.

While objective conditions in society may contribute to shaping the character and approach of the organisation to political and socio-economic issues, we know and understand that it is primarily the internal contradictions as well as the struggle to resolve such contradictions which determine the outlook and orientation of an organisation[18]. Coherence and cohesion at ideological, political and policy levels remain imperative for the organisational outlook and orientation. For this reason, we must engage in what Amilcar Cabral referred to as 'the struggle against our own weaknesses'[19] with a view to transforming all the antagonistic contradictions that are manifest in the organisation into a diversified internal organisational strength and power – something which the ANC has mastered over the years of its existence and struggle.

Challenges of the current phase of the revolution demand that the political, technical and strategic capacities of the ANC be further developed with a view to strengthening the organisation to be able to manage and resolve contradictions that are manifest within the organisation and in society. The political education and training of the ANC members remains crucial at all levels of the organisation as the strength of a revolutionary movement depends on the quality and conduct of the members and leaders. Which means that, a key obstacle to the revolution may be a lack of cadres within a leading organisation in society who remain focused and committed to advancing the interests of the country and its people, instead of using the organisation to attain material benefits for themselves, their families and friends.

A revolutionary movement which lacks the breed of cadres described by the late Govan Mbeki[36] as the people who are willing and prepared to sacrifice personal interest for the public good will be weak and thus incapable of mobilising the people in the country behind the vision and the efforts to effect democratic and socio-economic transformation in the current phase of the revolution. Put differently,

…our revolution will only succeed if the movement continuously produces a contingent of cadres who are conscious, competent, committed, disciplined and conscientious[21].

Because of this belief and understanding, our organisation has decided to dedicate the next decade to the task of developing a contingent of 'conscious, competent, committed, disciplined and conscientious'[22] cadres who (according to Lenin) are supposed to be tribunes of the people in challenging and uprooting social injustices wherever they manifest themselves[23]. With this breed of cadres, our organisation will be able to resist any developments in society which may threaten to undermine its capacity to lead the process of fundamental social change. ■

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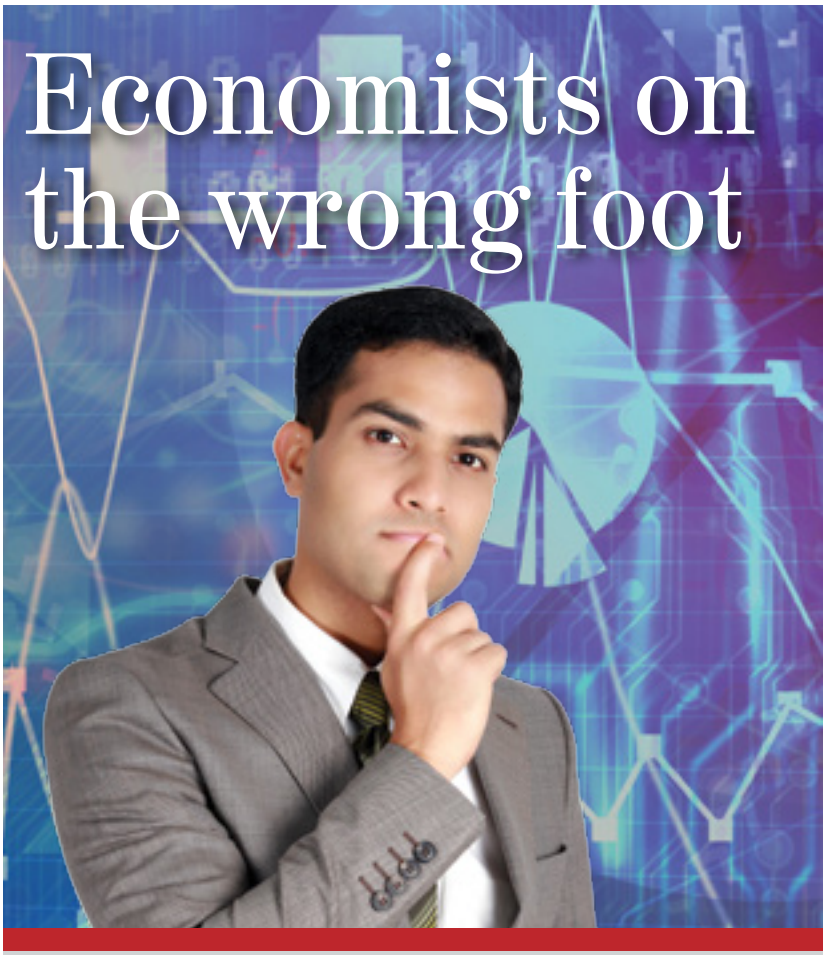
Economists on the wrong foot



The operations of the mainstream growth economy are actually taking something away from the survival and subsistence economies of the poor.

By Ashish Kothari and Aseem Shrivastava

The ongoing debate between two stalwart economists, Amartya Sen and Jagdish Bhagwati must be joined by those who understand contemporary realities and challenges in terms altogether different from those of mainstream economists. In a recent (July 27) article in *Times of India*, Bhagwati's co-author Arvind Panagariya characterises the differences between the two in the following terms. Sen favours education and health measures as being the first steps to tackle poverty and other ills that beset India, while Bhagwati (and Panagariya) prefer rapid economic growth. Presumably the wealth generated by the latter will then be utilised to tackle deprivations of various kinds. Secondly, Sen advocates strong interventions through social welfare schemes, reaching food, jobs, education and health through the bureaucracy, whereas Bhagwati prefers to empower people through measures like cash transfers, through which they can choose private or public providers of these services.

There is more in common between Sen and Bhagwati than is usually noticed, especially in what is missed out. Firstly, their debate is characteristic of the clichéd Left-Right positions, which seem to posit only two agents of development: the state and the private sector. This misses out what is, in many ways, the crucial third agent, in whose name development is carried out: people organised as communities and collectives, people seen not as 'beneficiaries' of the state or 'consumers' of private services but as drivers of their own destiny, empowered to self-provision basic needs and to govern from below. It should be obligatory for 'democrats' to privilege communities as makers of their own destinies and to recognise their on-going initiatives in that direction. We will come back to this shortly.

The second fundamental issue is that of ecological sustainability. Sen does often acknowledge the need to bring environment into the equation. Bhagwati largely ignores this. However even for Sen it is mostly an afterthought, as though one can 'include' sustainability without any fundamental challenge to the very framework of development in a globally competitive age. With scientific and community evidence of ecological crises piling up all around us, with accelerating climate change, biodiversity loss, pollution, and other environmental problems affecting billions of people worldwide (often negating the putative gains of development), and with the future of life on the planet itself at stake, this neglect is astounding (though typical of mainstream economists).

Just last week, even the World Bank, a rather unlikely agency to question economic growth, revealed that environmental damage is knocking off 5.7% of India's GDP in the form of pollution-related diseases, loss of land productivity, and so on. This study was limited to a few kinds of damage; if it had taken all of them into account, it is more than likely that India's famed growth is being entirely nullified. A July 2013 Asian Development Bank discussion paper concluded that "growth prospects are now threatened by rising income inequality and environmental degradation if Asia continues on its established growth path". Economic growth has actually

become quite 'uneconomic', but the pre-eminent science of scarcity seems to lack the intellectual tools to apprehend this reality.

This by itself is reason enough to call the bluff on Bhagwati and Panagariya's prescription of 'growth first'. But additionally, the kind of growth India is seeing today is also highly iniquitous. Firstly, it is leading to the direct and indirect loss of livelihoods of millions of people dependent on forests, farms, rivers, coasts, and grasslands. The operations of the mainstream growth economy are actually *taking something away* from the survival and subsistence economies of the poor. Such loss is never accounted for in official economic statistics of growth, as though growth uniformly benefits all, when the truth may be nearly the opposite. The *Times of India* (ToI) quoted National Statistics Survey (NSS) data recently which show that 90 lakh (9 million) women lost their livelihoods just in the last two years; causes of this are likely to include land and natural resource grabbing by development-related processes.

Secondly, (and this fact alone clouds the Indian growth story), while pumping huge amounts of investment into the formal economy, growth is not leading to any significant net increase in jobs; indeed, the past two decades of high growth were also characterised by net decline in employment in most sectors. 93% of India's labour force continues to work in the informal economy, without survival wages or any of the benefits or security of formal employment. Employment in the formal economy has grown from a meagre 26.7 million in 1991 to a still meagre 29 million in 2012, while the labour force has increased by 100-125 million! The global phenomenon of jobless growth, inevitable in the age of rapid automation, is a reality ignored by both Sen and Bhagwati.

Third, the 'trickle-down' of wealth approach is a highly cynical way of planning 'inclusive' development; why should the poor have to be content with the crumbs from the high table, especially when they pay the ecological costs of the high growth that others enjoy? And even that is working only if you are part of the policy brigade that shows rapid declines in poverty by manipulating the poverty lines. It would be instructive to see if any one of these economists and decision-makers who believes Rs.30 or even Rs.50 per day is enough to take one above the poverty line in a city, can live for even a few days on such amounts.

Fourth, the 'growth-first' mantra has seen a massive rise in the wealth of the already rich, such that over half of India's wealth is now owned by its richest 10%; according to both NSS and Asian Development Bank statistics, inequality in India is only growing.

Fifth, neither Sen nor Bhagwati analyse the fact that India's policies for the past 22 years (and more) have been forced by the ever-looming foreign exchange crisis, and thus the need to make ad hoc policies to constantly attract funds from abroad to tackle its external account. According to the RBI, India has to fork out $170 billion (more than 10% of GDP) in debt-servicing between now and March 2014!

Let us then get back to our third agent. Hundreds of initiatives across India have shown rural and urban communities capable of providing for themselves one or more of their basic needs of food, water, shelter, energy, education, and health. Where aided by the state or by civil society, this has been even more successful. This should have been the true meaning of the 73rd and 74th Constitutional amendments, unfortunately never seriously implemented. We agree with Bhagwati and Panagariya in the assertion that people need to be empowered rather than forever provisioned by a charitable state under a command and control situation; however, such empowerment is not as much about cash transfers as about secure land and resource rights over the commons (such as with community forest rights under the Forest Rights Act), producer companies replacing the big private business sector (as is happening with handicrafts, food, milk, in dozens of places), revitalised agriculture through organic, biodiverse ways linked to localised Public Distribution System (PDS) and other consumer outlets (as demonstrated by Deccan Development Society's Dalit women farmers in Andhra), decentralised rural manufacture complementing agriculture (witness the transformation in places like Kuthambakkam in Tamil Nadu), localised economies with producer-consumer linkages embedded within larger systems of trade and exchange, ecologically sensitive landscape-level planning (see a fledgling effort in Arvari river basin of Rajasthan), community controls and monitoring of state services (such as Nagaland's communitisation of education and health), urban sustainability initiatives (like local water harvesting and waste management in Bhuj and Pune), and many others.

However, in the long term community initiatives like these will need the backing of state policies to survive in the rapacious environment that has been generated in the global age. Without the backing of coordinated policies, even big business does not thrive, a point missed by both Bhagwati and Sen!

Community empowerment is not the panacea for all of India's ills, and we need to deal throughout with entrenched class, caste, gender and other inequities. However, without the revival of strong communities and an informed, enlightened support of their initiatives, it is difficult to see how the mounting social and ecological crises of our time can be faced. If India becomes 70-80% urbanised by 2025, as is the vision of our policy elites today, widespread ecological collapse and social conflict is certain. Business-as-usual (even if the State carries out the measures that Sen wants) is no longer an option, so long as ecocidal, predatory growth remains the mode of 'development'. There is too much evidence (most recently from Uttarakhand) that should urge us to work in the direction of an ecological democracy. It is a survival imperative. The cheerleaders of globalised development fail to see this growing fact and its implications. Their resource illiteracy is unconscionable.■

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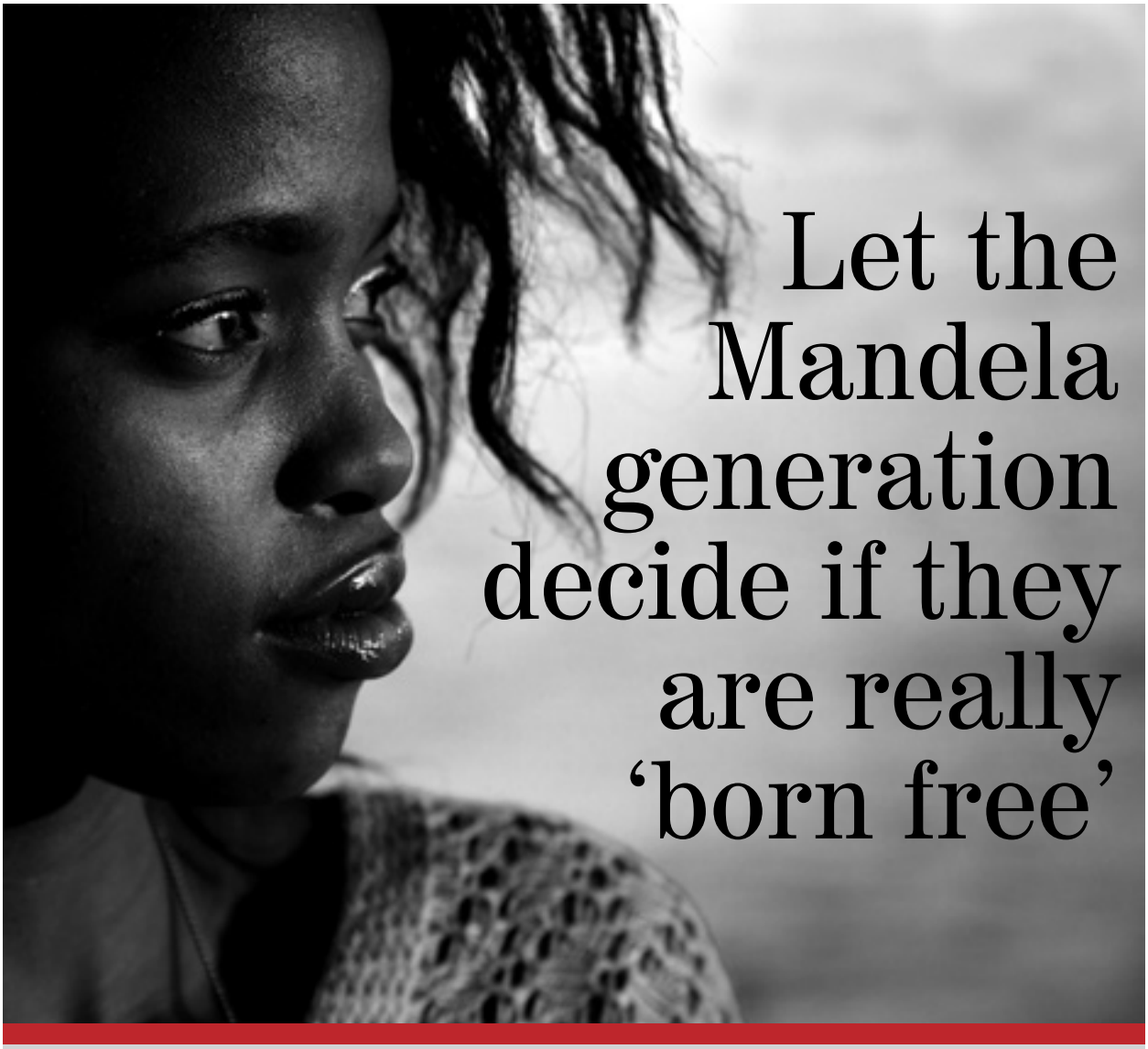


Let the Mandela generation decide if they are really 'born free'

The Mandela generation in fact will determine how far we have come as a country; their success or demise will be the yardstick of our policies, the advancement of the NDR and whether indeed we are moving towards economic freedom.

By Gugu Ndima

I have been battling to pen this piece for a while now; I continuously had the urge to write about perceptions on who the "born frees" are, their character and how they interact. Normally it is not this generation itself that projects certain common images, but usually their seniors, based on their observation of their immediate children and their acquaintances.

A commonality or recurring constant in the way the 'born frees' are presented is that they are placed within the middle class stratum. An assumption is made that they are all or mostly, technologically savvy, spend most of their time on social networks and are supposedly informed about a number of things. We can't dispute the fact that indeed we do have a lot of young people who have access to such facilities and indeed they are very active on social platforms, but seemingly sensationalism has superseded reality

and common sense in our analysis.

The trigger came to me when I met Noluthando, a 19 year old young lady, on my way to work. We took the same taxi and she happened to sit next to me. She shyly asked for directions as she said she was on her way to an interview; I accompanied her to Eloff Street in Johannesburg CBD. At some point her cell phone rang and it was far from the techno savvy phones most young people seem to have according to these perceptions. She hurried behind me, and as we moved towards her destination close to Ghandi Square, naturally I probed her about her journey and she nervously told me she was going to look for a job as a call centre agent and had been called for an interview. Her voice had an undertone of pessimism; however I didn't let myself probe further so that she wouldn't assume I was nosey.

We exchanged numbers; I then asked her to give me a call after the interview, as I work down the road. Her clothes were far from the trendy clothes we see on adverts and media modelled by the so called born frees, her outlook was nothing like the "YO-TV" brigade and her eyes screamed for help. In no time she sent a call back message and we met again at the same spot; there were also a number of other youngsters her age hoping to land a job at the call centre. Her gentle eyes filled with tears as she agonisingly explained that this was a money-making scam and they were required to pay for training; and this does not guarantee placement in any job. She had used the last money she had from her mom, who is a domestic worker, to get to this 'interview'.

This scam sadly has benefited immensely from young people, fresh from matric, desperately seeking employment. I then wondered if social distance isn't an ailing cancer amongst many people especially leaders who seemingly assume that all things are "free and fair" amongst born frees, conveniently forgetting that the majority of these youngsters are descendants of the working class and the poor who involuntarily inherit socio-economic disparities which their mothers and fathers are equally subjected to.

Another hard hitting reality that Noluthando shared was the fact that she has a five month old baby at home and lives in a shack with her brother and mom. Her father passed away three years ago and the father's best friend has attempted numerously to take advantage of her due to her conditions; as she mentions this she weeps. I couldn't press any further as it seemed as if the man (whoever the animal is) probably won in his quest or the intimidation has advanced.

Now Noluthando's story isn't unique in South Africa and probably many young people can relate to her agony and frustration; and some have probably encountered far more severe troubles. The class distortions around born frees and what they seemingly represent are a dangerous and potentially alienating tool in relation to the young generation that still needs to be freed from the bondages of poverty.

> "Will this generation be afforded access to opportunities which will secure their future? Isn't economic marginalisation a new form of brutality, which has the same ability to strip a person of his or her dignity just like apartheid did?"

Our apportionment of "born frees" in society is sadly informed by sensationalism in the media and a social media craze which has made us believe that all of them seemingly exist there. Are they really born free? This is one of the most complex questions confronted by society and leaders of South Africa today. There has to be an all-inclusive assessment and contextualisation of who exactly are the "born frees". South African society is characterised by class inequalities, socio-economic disparities and a number of miscellaneous elements; therefore the assumption that every child or youth born in or since 1994 was born into the same opportunities or class segment is intellectually and economically flawed. Yes, they will never be subjected to virulent apartheid brutality. However, will this generation be afforded access to opportunities which will secure their future? Isn't economic marginalisation a new form of brutality, which has the ability to strip a person of his or her dignity?

We seem to have conveniently overlooked the so-called born free who is in the juvenile section or a cell in prison in Boksburg or Sun City, surviving the excruciating brutality of prison conditions without parental guidance or family support. We have forgotten about the so-called born free who washes taxis in cold weather to fend for himself and buy his next pair of Converse sneakers. We ignore the born free heading a house in a dilapidated shack with no sense of hope, the born free who has been introduced to prostitution as the result of socio-economic conditions, the "born free" sleeping with a man old enough to be her grandfather because her immediate circumstances have robbed her of a viable future.

We forget the born free who has just started experiencing the trauma of labour broking in the retail sector and the call centre industry; the born free who has just started in the taxi industry; the born free married off to an old, old man; the born free who has been rejected by an institution of higher learning because he/she has no money to register; the born free who has been forced to start working at an early age as he or she has no parents; the born free on a Free State or Western Cape vineyard being exploited by a white farmer; the born free on a construction site not knowing if they will get paid or not; the born free who has lost a father in Marikana; and the born free in a mine as we speak drilling rock for white monopoly capital.

Do we remember the born free labelled is'khothane, desperately trying to copy a crass materialist trend as all possible role models who might have inspired him or her to see better

have fled the neighbourhood to the suburbs and become armchair critics of government?

What about the born frees pushing a trolleys in taxi ranks hustling to get passengers to use services, the born free mopping floors at Shoprite earning R8 per hour? The born free advised by his uncle to take a code 14 driver's license to join him in the trucking business as he sees nothing better for him because of the surrounding realities? The born free you pass at the robots everyday begging for change, with white traces on his lips from the glue he smokes to escape his reality? The born free who has been absorbed as a domestic worker helping her mother as she sorely watches fellow born frees of the madam and baas enjoy the fruits of democracy?

In simple terms we have forgotten the descendants of the loyal volunteer who remains patriotic despite the odds; and unintentionally we have elevated the savvy born free who must be convinced to vote in 2014 even if he/she is enjoying the fruits of democracy.

I sarcastically place "born free" behind these descriptions because this paints a bleak picture of the stark realities of many born frees who would be insulted to be assumed born free. Free from what exactly, when many of their realities are characterised by tormenting socio-economic conditions? This isn't unique to rural communities, in fact urban townships are more debilitating for the born free generation, given the crass materialism displayed around them and peer pressures prevalent in their communities.

The reality is that born frees, as loosely conceptualised, are subjected to a new form of political and economic challenge. This is in line fundamentally with access to equal opportunities in education and the economy. The reality is that we find born-frees in all segments and classes of society, in farms, villages, informal settlements and so forth. And the majority of them are descendants of the working class and the poor who will probably live just like their parents are living and freedom will still be a myth for most of them as their struggle is about their economic survival.

"This isn't unique to rural communities, in fact urban townships are more debilitating for the born free generation, given the crass materialism displayed around them and peer pressures prevalent in their communities."

The greater challenge now is that economic emancipation won't be a reality for all of them, given some of the circumstantial tribulations they find themselves subjected to. We still have a problem of admission to education and access to the mainstream economy which ideally should be accessed by all.

Most of them will matriculate and have nothing to do post matric. So what exactly do we understand about our connotations of freedom in the current dispensation, especially for the born free generation? I recently came across a slogan from the born frees who refused to be labelled as born frees. They call themselves the Mandela generation, which in my view is politically correct, as yes indeed they were born when Tata Madiba became President and democracy dawned upon us. For me it asserts that they have identified themselves as a generation and their identity is one which seeks to properly define

"They have identified themselves as a generation and their identity is one which seeks to properly define their struggle today. They are not naïve about the hurdles ahead."

their struggle today. They are not naïve about the hurdles ahead. I believe this born free label should not be imposed on them by people who might have distorted views of who they are and what they represent for the future.

For my generation (not so free), we will betray the Mandela generation if we fail to heed the clarion call of economic freedom in our lifetime, if we fail to accept that economic freedom is a generational call and not a political gimmick slogan.

We must fight for their access to quality education, we must be resolute in calling for the control and regulation of labour brokers and fight for access to the mainstream of the economy. No Mandela child must remain shackled in the same perverse economic constraints as we have and our mothers and fathers have. The Mandela generation in fact will determine how far we have come as a country; their success or demise will be the yardstick of our policies, the advancement of the NDR and whether indeed we are moving towards economic freedom.

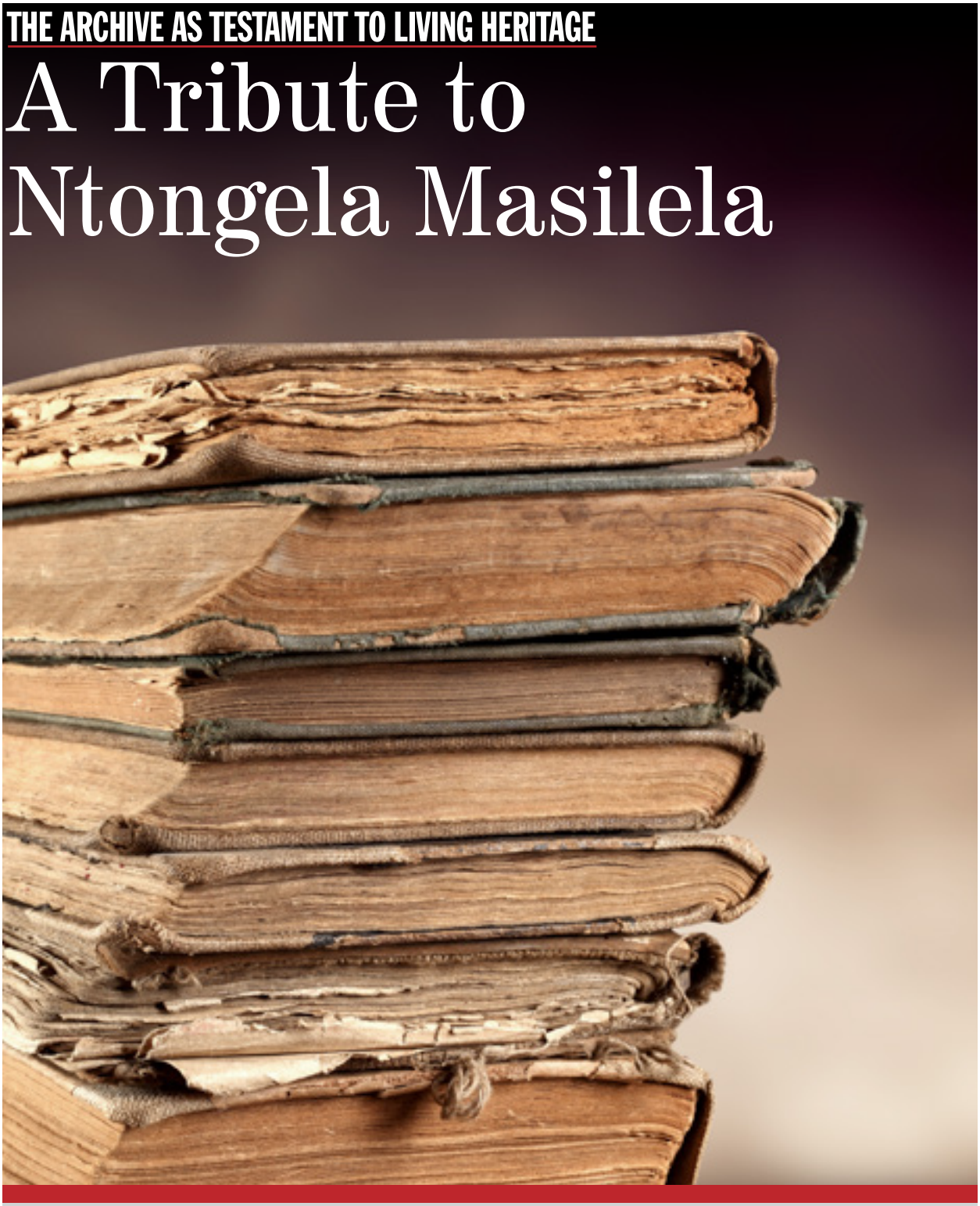
However if none can say my life is better, then let's stop calling them born frees and accept that we have betrayed their futures. We should be instrumental in guiding them, and instrumental in shaping their future. Even if there are global influences, we must ensure that we remind them of who they are, their identity and the responsibility they have towards building the ideal South Africa we espouse. This can only be realised if we don't betray our cause.

Many of this generation have platforms to speak their minds; they actually even have platforms to challenge the system on things they don't agree with. However let us be reminded of many others that don't have this privilege and are silently being tormented by their reality.

In conclusion, we the generation that must realise economic freedom will determine how the future of born frees (Mandela generation) unfolds through our actions, cowardice or bravery to fight for the realisation of our generational task. ■

THE ARCHIVE AS TESTAMENT TO LIVING HERITAGE

A Tribute to Ntongela Masilela



In the works of Masilela, black people are given history and the potential to re-member their humanity and their very being.

By Busani Ngcaweni, Jeffrey Sehume and Dan Motaung

There is an African proverb which encourages the young and not-so-young to honour their elders. It is believed such homage to the elderly, who are supposed to be founts of lifelong learning, will in turn shower the young and not-so-young with life's blessings. It is important to extend such tributes to the elders when their mortal souls are still intact, in physical form. It is worth invoking this proverb in relation to the exalted contribution to our historical memory by Professor Ntongela Masilela, an activist scholar of international repute.

In historical terms, black South Africans are relatively recent arrivals in projects aimed at reclaiming the past. The burden of history has denied them the means and confidence to define the meaning of history and their place in its narrative. As it is, they are a people trapped in demands of present conditions and focused on meeting tomorrow's needs. Stomach-level considerations tend to take precedence over intellectual pursuits, especially when such pursuits, focused on the distant past, seemingly hold out no immediate prospects for daily survival. Consequently, this inadvertent 'inattention to the past' leads to participation in acts of tacit legitimation of attitudes, beliefs, and dogmas excluding them from the unlimited potential inherent in history and memory. This 'inattention' exposes them to the Eurocentric charge that 'Africans have never launched themselves into history' or that cognitive faculties for reflective thought do not inhere in an African mind, and therefore Africans are passive consumers of others' imaginative creativity.

While knowledge on and about the archivist Masilela is limited in the popular imagination, his works look set to outlive him in being monuments, records, transcriptions – published and unpublished – on a moment and time in South African history when the restrictions of state racism and academic cynicism concerning the black subject were transcended. Alas, even though he has reaped meagre rewards, one likes to believe that he takes comfort in the counsel found in the *Bhagavad Gita*: "You have the right to the work but not the reward".

In the 1940s, the learned among the young Turks who would go on to form the youth wing of the current ruling party envisioned a similar project of an Encyclopaedia on the African, and especially South African, historical process, without much success. It fell to intrepid scholars like Masilela to embark on a long journey to chronicle men and women embraced under the New African Movement (NAM) that straddled the period between 1862 and 1960. Across the oceans in the United States, W.E.B. Du Bois would plant a seed for such an Encyclopaedia which would sprout in the 1990s in the capable hands of Henry Louis Gates and Kwame Anthony Appiah.

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The organising principle behind NAM could be said to be recognition of the impact of modernity on tradition and vice versa without resorting to a vanguard of ethnic, ideological, economic or cultural purity, as befell negritude for instance. Masilela's archival project is, by definition, a repository of diverse and multiple experiences, permutations, dialectics, geographies and objectives. It is a prescient initiative which houses the works and interpretations on /Xam personages like !Gubbu, Griqua figures such as Adam Muis Kok, all the way to *Drum* magazine scribes like Bloke Modisane and Bessie Head.

NAM can be characterised as an effort to highlight in history moments of political heroism in response to imperial and racial domination and as such, it aimed for negotiation of a black presence in letters and debates driving publications like *Tsala ea Batho, The Bantu World, Imvo Zabantsundu*, and *Ilanga lase Natali*. It had an expressed political intention to challenge the apartheid state and its supportive scholarship with the result that NAM became for Masilela the "intellectual and cultural expression" of the African archive while the various political movements like the South African Native National Congress (SANNC) and the African People's Organisation (APO) were its "political practice".

But how was NAM different, if at all, from negritude and Afrocentricity? We would contend that the shortcomings of both these intellectual-political routes is that they are largely reactive in orientation and confined to an essentialism that does not appreciate the complexity of today's influences like globalisation, multi-polarity, ecological concerns, and polycentric technological phenomena. NAM was firstly, reasonably cognisant of the sustainable viability of a non-racial struggle; secondly, it was represented – consciously and unconsciously – by a diversity of individuals and ideological viewpoints ranging from, amongst others, Tiyo Soga, Abdullah Abdurahman, Mary Benson, Solomon Tshekiso Plaatje, Thomas Mofolo, Mazisi Kunene and Robert Sobukwe.

To be sure, the NAM movement emerged and developed at its own tempo. There was no stated purpose to its flowering for nearly 100 years. A historical motor driving NAM could then be described as self-generating and therefore relatively superior to that which compels business or political enterprises. In an essay entitled *A Historical Purview of the New African Movement*, Masilela is on the mark when he says this "bespeaks to a paradoxical relationship between culture and politics: though politics may be determinant of culture, culture is invariably superior to, and more durable than, politics".

Professor Ntongela's attempt to render the oppressed subjects rather than objects of history does break

new ground. Before his ground-breaking initiative in all instances when intellectuals of Africans descent had decided to venture into the terrain of reclaiming the past three broad patterns emerged: plainly or silently endorsing a romantic image of an unchanging African in his or her tribal garb; parroting European models of success as in, say, our schizophrenic policy decisions; or engaging in self-hating exercises that support negative forecasts about Africa's dependency syndromes, incurable health pandemics, disregard for ethical behaviour in business and politics, and quickness to bear arms, clutching a machete as the weapon of choice.

These three historical patterns have appeared at various times in the form of the rather strident Afrocentricity of Molefi Asante, the reactive negritude movement of Leopold Senghor, and in guises of colonisation cheerleaders like Keith Richburg who would echo the 2000 *Economist* magazine putdown of Africa as a 'hopeless continent'.

Arguably, common denominators about these responses are that they emerged as knee-jerk reactions with a short-term motivation at heart. What is more is that they appeared stripped of a plain political goal of changing the inherited structures of dominance and manipulation. In his critique of retrogressive negritude, Oluwole Soyinka would ask if a tiger has to pronounce its tigerness before it can proceed with its activities of being an animal of prey. In short, to him, the task at hand should be directed at addressing objective conditions rather than tinkering with self-definitions which subsequently become wasteful navel-gazing.

Why is it important to reclaim the past using available means such as history encapsulated in the archive and monuments? The Ghanaian symbol of Sankofa urges reckoning with the past before attempting to account for the present and possible future. The location to pinpoint the living past for the entire human race was recognised by Sir Thomas Browne when he stated we "carry within us the wonders we seek without us: there is all Africa and her prodigies in us".

It is to be recalled that the systematic denial of an African presence in the creation of a pre-colonial civilisation like the millennium-old Mapungubwe state enabled apartheid architects to relate to black residents as uncultured subjects. Such denial and removal of facts from the annals of history facilitated the implementation of segregation laws and the imposition of skewed knowledge: for example, that southern Africa was an empty land (*terra nullius*) without development; and sparsely occupied by innocents ready for receiving western benevolence (*anima nullius*).

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To sustain this myth, based essentially on prejudice about people's assumed intelligence quotient, physical and sexual abilities, popular discourse and institutionalised 'scientific' data was produced to sustain actions that amounted to group human rights violations. When intellectual authorities like Georg Hegel and Arthur de Gobineau's *Essay on the Inequality of the Human Races* were relied upon to support the stereotypes and accompanying acts of discrimination, the ideology of apartheid gained traction – despite retrospective protests to the contrary in some quarters – in academic journals, textbooks, and popular lore in media and other outlets.

Therefore, there is no denying the duplicitous relationship between the apartheid state and pre-democratic academia. Otherwise, how is it feasible to contain the real history on and about the pre-colonial state of Mapungubwe whose genius was kept well-hidden for more than 70 years from those who are its rightful inheritors? Only collusion with the then-status quo would explain the purposeful silence on the topic of this civilisation that came into being and thrived in its multi-ethnic societal organisation, technological advancements, and trans-continental trade with countries such as the Middle Kingdom, China.

One wonders what would have happened had the 14th century Chinese naval explorer, Admiral Zheng He fulfilled a long-term trade relationship with inhabitants of ancient Mapungubwe. One can only conjecture if by chance this would have shifted the subsequent terms of contact between the Dutch visitors in the 17th century and, the pastoralists and hunter-gatherers of the time. Would these relationships have later facilitated a mutual development of each state-kingdom in what were obviously early examples of globalisation? Alas, history requires events to unfold before 'objective' comment can be ventured.

Still, throughout this period of trying to perfect a racial polity of rehearsed authenticity in the form of Bantustans, there were individual activists in the halls of academia who made it their life's purpose to marshal a counter-narrative. The émigré, Masilela, can be described as a 20th century version of a Denis Diderot in his ambitions of profiling the lives and works of the neglected, marginalised, erased, forgotten, and scorned African men and women not acknowledged in pre-1994 South African historiography. It is a matter of historical record that for the industrious Diderot, the project of establishing an Encyclopaedia was meant to provide an all-encompassing summary of human endeavours in diverse areas.

The storehouse of world civilisation is honoured with the work provided by Masilela in telling of a common humanity through the NAM. In the works of Masilela, black people are given history and the potential to re-member their humanity and their very being. ■

The changing face of the fishing industry is opening the sector up to small-scale fishermen and women

Minister Tina Joemat-Pettersson speaking to members of the fishing community during a visit to Kalk Bay

By Tina Joemat-Pettersson

The fisherman in South Africa has always been the man who leaves home for months on end to go to sea. He earned his living by working in fishing boats. And his wife has always been the woman left behind supporting their family by working a back breaking job packing the fish or if lucky enough to learn the skill, processing it in the local factory where most of the community works.

And the cycle is repeated when their sons and daughters – the next generation of the small fishing coastal community – take over from their parents and with this change, or rather lack of it, the village remains mired down and doomed to a vicious cycle of poverty.

But the policy changes being brought about by government are now tipping the scales in the current generation's favour. By empowering the youth and women to change the face of that village and equipping them with the tools to drive the local economy, government is breaking that cycle.

In a country like South Africa, which carries the historical burdens of poverty, unemployment and inequality, this is a mammoth task. But under its new leadership since 2009, the Ministry and Department of Agriculture, Forestry and Fisheries (DAFF) has been tasked by government as one of the key agents of change, to meet the challenges and be instrumental in empowering disadvantaged communities and boosting poor economic sectors.

The fisheries sector alone contributes an estimated R6 billion to the South African economy, with its commercial sector employing about 27000 people and contributing about 0.5% to the GDP. With the National Development Plan as our compass, aimed at eliminating poverty and inequality by 2030, the department has armed itself with sustainable programmes and policies which benefit the poor, and we have committed ourselves to break the legacy of apartheid by creating employment opportunities and contributing to economic growth.

The country, this sector included, is emerging from a legacy of exploitation and discrimination – an era marked by land dispossession and the exclusion of a large portion of the South African

population from benefiting from economic activity. Some of the areas where are our people were never allowed to participate commercially are now included in the mandate of our Ministry, and the government recognises the rights of all its citizens, especially previously disadvantaged individuals, to ownership and participation in these sectors.

The Department of Agriculture, Forestry and Fisheries intends to ring-fence a percentage of fishing rights allocation quotas, which will be allocated to youth empowerment companies.

Government's aim is to transform the fishing industry by making it possible for small-scale fishers who were excluded by apartheid laws and policies to help them take part in the commercial side of the fishing industry and therefore boost the economies of the often poor areas they come from. This includes the non-coastal communities that traditionally do not take part in the fishing sector. By the end of 2014 we plan to support more than the five fish farms that are currently enjoying government's helping hand across the country.

Subsistence fishing communities traditionally included net-making, boat building and putting together bait for additional income and creation of more employment opportunities. As government, we support the creation of permanent and seasonal employment over contract employment and encourage the training of workers through learnership programmes.

Industry research has shown that communities in the coastal regions of the Western Cape, the Eastern Cape, KwaZulu-Natal and the Northern Cape make up the bulk of the country's rural subsistence fishers. In terms of the recently published the 2013 General Policy on the Allocation and Management of Fishing Rights and the 2013 Fishery Specific Policies, the Department is promoting wider access to this sector.

In the Western Cape, a coastal province which research has shown to have the highest concentration of subsistence fishers in its urban and peri-urban areas, fisheries account for about 2% of the GDP. The new

policies outline the changes in law that govern the allocation of fishing rights in communities, and government hopes the amendments to sections that include the harvesting of commercially viable fish species including hake handline, Kwazulu-Natal prawn trawl, oyster, squid, and traditional linefish will enable other coastal areas to replicate and even surpass the Western Cape example.

Food security and staving off hunger are matters of serious concern to many governments around the world, including South Africa. While our government has enshrined the right to access to sufficient food and water in our Constitution, recent reports have revealed that about 12 million South Africans have insufficient access to food – a sad situation which government intends to rectify with a sense of urgency.

To prevent this from happening in the future, our laws have put the promotion of efficient production and handling of food, fibre and timber firmly on our agenda – this includes, for example, our rights allocation policies which are aimed at maintaining an eco-friendly system that will make it possible to manage scarce or depleted fish species and other marine life.

Government encourages the active participation of formerly disadvantaged groups as well as women, people with disabilities and youth to look into fishing as a career. As a government, we recognise the role that small-scale fishermen and fisherwomen play in forming an inclusive and integrated rural economy – as a result ownership schemes are encouraged so that the government's vision of an inclusive, integrated rural economy may be realised.

A budget of R434 million has been allocated to the fisheries sector – with the aim of creating more jobs and restoring the dignity of people living in these communities. This is part of our commitment to redress the inherently immoral legacy of our past and to help the poor people of South Africa who were victims of this to regain their livelihoods.

To reiterate the vision behind the department's theme for this year, "Unity in Action towards Socio-Economic Freedom", which I touched on when presenting our budget speech in May, we hope that the efforts that government is making to help these communities will be met with an equal amount of enthusiasm to change this sector to one that promotes the inclusion of women, youth and disabled people and encourages them to take leadership roles. We also hope to make real the dreams of generations of fishermen whose ambitions were quashed by the racist apartheid system.

Tina Joemat-Pettersson is the Minister of Agriculture, Forestry and Fisheries. ■

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Agriculture, Forestry and Fisheries
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Mining Sector Violence Reflects a Deeper Social Malaise

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Among other things, last year's events in Marikana laid bare the central problem of violence in South African society which has still not been adequately addressed.

By Ross Harvey

The Marikana tragedy of August 16, 2012 – in which thirty-four striking mineworkers were shot in the back by a brutal police force crackdown - has elicited a voluminous spectrum of analyses. The most insightful have pointed to the need for deep structural reforms, including innovative means of addressing the persistent challenges of migrant labour. Few, however, have drawn parallels between Marikana and the central problem of violence in South African society more broadly. Indeed, as violence and intimidation continues across the platinum belt more than a year after Marikana, no problem is more urgent, especially given that the Association of Mineworkers and Construction Union (AMCU) has yet to sign the peace accord engineered by Deputy President Kgalema Motlanthe.

In their seminal 2009 book, economic historians Douglass North, John Wallis and Barry Weingast explore the connection between Violence and Social Orders. Societies have, through history, used institutions to limit and contain violence by shaping the incentives faced by individuals and groups with access to violence. Institutions are conceptualised as the humanly devised constraints or rules of the game within which organisations play. Most societies across the globe are characterised by what the authors call a 'natural state', or 'limited access orders', where personal relationships among the elite at once form the basis for political organisation and constitute the grounds for individual interaction. It is ruled by a dominant coalition and those excluded have only limited access to organisations and valuable resources (rents).

Limited access orders can be categorised along a fluid continuum from fragile to basic to mature. Fragile orders are those in which the dominant coalition is highly insecure in its position, as it does not have anything close to a monopoly on the use of violence. These shortened time horizons tend to result in rapacious rent-seeking that results in economic inefficiency and declining welfare.

Basic orders are exemplified by a more stable coalition; external threats are less credible than under a fragile setting, but most organisations are excluded from access to political and economic opportunity, and personalised exchange remains the order of the day. Mature orders are those that have some respect for the rule of law as an embedded norm; the judiciary and the media provide a relatively substantial constraint on the abuse of power by elites in the dominant coalition. But patronage remains a dominant feature of the relationship between citizens and the state. It is a mechanism for co-opting non-elites as a cost-effective means of preventing uprisings against the coalition. Democracy in all of these settings is more a reflection of patronage-induced loyalty than a means of genuine accountability, but to differing degrees.

By way of contrast, very few modern societies exhibit 'open access orders'. These orders are depersonalised, in that economic development occurs within a framework of impersonalised forms of exchange, where impersonal third parties credibly enforce contracts. Democracy – as defined by the presence of elections – is a necessary but insufficient condition for open access orders to emerge. The rules of the game have to become depersonalised and access to power and resources has to become inclusive.

South Africa is – in light of the above categorisations – a mature limited access order. The ruling coalition increasingly grants its members special privileges in the form of patronage (cadre deployment, tenders for politically connected entrepreneurs and so forth). Not only that, more overt extortion is now surfacing, especially in the arena of mineral rights management. It is alleged that Goldfields paid a bribe (in response to a political threat) to secure a conversion of its old order mining rights to new ones. More generally, the majority of the population is excluded from access to economic opportunity. These privileges create rents, which the ruling elite then has an incentive

to protect by limiting access to them. The National Union of Mineworkers (NUM) is one player within this ruling coalition. They have a particularly strong incentive, under the current labour relations regime, to exclude rival union AMCU from the spoils of being the officially recognised union on any given mine or set of mines. Both NUM and AMCU know that inter-union violence erodes the available rents, as mining profits fall on the back of reduced productivity. But each presumably values the long-run benefits of official recognition sufficiently to warrant the costs of violence.

The problem is exacerbated by the fragility of the region. South Africa, for all its difficulties, remains the economic powerhouse of southern Africa. That many of its neighbouring countries are mostly basic limited access orders (with Zimbabwe clearly falling into the fragile category and Botswana an exception on the mature end) means that access to economic opportunity is extremely limited. Economically-driven migration then feeds into the already abhorrent migrant labour system on South African mines. Migrant labourers from Lesotho, Swaziland, Zimbabwe, Mozambique and Malawi are prepared to accept the lowest-paid jobs, but tensions arise nonetheless as competition for scarce resources (especially municipal services) intensifies in communities around the mines. With an average 10:1 dependency ratio on each mining sector job, which is probably higher for each migrant labour job at the low end of the pay spectrum, workers' susceptibility to extortion from loan sharks is amplified and the social melting pot raises the spectre of Marikana-type tragedies.

Politicians in both natural states and open access orders want to create rents; rent-creation simultaneously rewards their supporters and binds their voters to support them. The difference is that in open access orders, the creation of new entities to compete for rents is accepted; the creation of new interests and the generation of new sources of rents occur continuously. But NUM has direct access to South Africa's ruling coalition and is therefore strongly disinterested in accepting the entrance of new players to the bargaining game. NUM, through the employment of violence (returned in kind by AMCU) is carefully guarding its rent-stream. The high level of violence in South African society more broadly is in fact a reflection of a political system that is democratic in name but functionally a mature limited access order at best.

To further underscore the point, consider that open access orders are characterised by adaptive efficiency – societies generate a range of new ideas in the face of exogenous shocks and dilemmas. Political competition, for instance, provides those in power with strong incentives to adapt policy to address the problem. If South Africa were a truly open access order, for instance, one might expect – in the wake of Marikana – that the ruling party would have voted in favour of amendments to labour legislation that serve to democratise the bargaining process. They did not.

The incentives to protect rents for the ruling coalition outweigh the incentives to adapt efficiently to shocks. These rents make it attractive for political elites to block technological and institutional improvements that might result in non-elites gaining access to rents, which may alter the distribution of de facto power, threatening the dominant coalition. Such manoeuvring invariably produces regulatory uncertainty, which induces rapacious extraction. Companies discount more steeply and extract more heavily in the short run to reduce the negative effects of future expropriation risk.

But the state cannot shoulder the entire blame. The technical inability of the mining houses has also reduced the appetite from their investors for new projects. Both technical and structural factors contribute to the fall in production and undermine the viability (and hence the future) of these inherently risky businesses. The antecedents of lost production and foregone opportunities can mostly be laid at the door of lack of foresight and forethought - at the door of self-interest trumping national interest. All major stakeholders are guilty in this respect.

The upshot is that mineable ore remains untapped, mines shut down sooner and employment ends more quickly. Income levels fall and development goals remain unmet.

So how then should South Africa proceed in order to transition from a natural state to an open access order functionally consistent with the provisions of its constitution? If we are to achieve a transition from a natural state to an open access order, we need to create what North and his co-authors call 'doorstep conditions' through which elites are incentivised to value cooperation (more inclusive rent-creation and sharing) over violence.

Specifically, this means three things:

- First, elites need to credibly commit to upholding the rule of law.
- Second, organisations such as the government need to be 'perpetually lived', 'defined by the identity of the organisation rather than the identity of its members'. Patronage and cadre deployment undermine this imperative in the South African context.
- Third, the state must legitimately consolidate control over the organisations with violence capacity, such as the police force and the military. In South Africa, it is too often the case that an ascendant faction within the ruling coalition has monopoly control of police and military resources.

In other words, elites must find it in their interests to transform personal and privileged intra-elite arrangements into impersonal contracts.

In the NUM vs AMCU debacle currently unfolding, for instance, it would actually be in NUM's long-term interests to democratise the bargaining process. This would reduce the violence in the sector and prevent NUM from being excluded from the bargaining table in the future (which is a very real risk considering the momentum that AMCU has gained after Marikana).

Among other things, last year's events in Marikana laid bare the central problem of violence in South African society which has still not been adequately addressed. If violence is to be ameliorated, concerted collective action is needed to create the doorstep conditions by which we can abandon the shackles of a 'limited access'e and move to an 'open access order'. Only then can South Africans truly enjoy access to economic opportunity. ■

THE EFFECTS OF THE PROPOSED AMENDMENT OF THE LABOUR RELATIONS ACT ON INDUSTRIAL ACTION

Will It Survive Constitutional Muster?

How will the Constitutional Court deal with this amendment if it is made into law and is challenged due to its inherent unconstitutionality?

By Bongani Khanyile

Section 23 of the Constitution provides that everyone has a right to collective bargaining which includes strikes. Section 17 provides that everyone has a right to picket. These are fundamental rights for employees which form the cornerstone of democracy and are entrenched firmly in the Bill of Rights.

This right is given effect by the Labour Relations Act, specifically Section 69 which provides the procedures and requirements for exercising the said rights which are important in a country that was marred with previous industrial inequalities and injustices.

Without a doubt, the right to strike is arguably the best weapon that the employee has against the employer, who, in terms of the decision of the

Constitutional Court in the South African National Defence Force cases, has no duty to bargain.

J A Conradie summed the decision in these words, "the Constitution, while recognising and protecting the central role of collective bargaining in our labour dispensation, does not impose on employers or employees a judicially enforceable duty to bargain."

It cannot be that the Marikana tragedy has changed the labour climate in the country. From a labour practitioner's perspective, the South African Police Services have been under scrutiny in how they handle strikes, whether protected or unprotected. The force has been coy in enforcing Labour Court interdicts and this is a combination of the pressure from the South African media and a form of defiance stemming from the fact that the police have felt that the public failed to take into consideration the subjective danger and threat the police felt they were in during the tragedy.

Or even worse, the problem could be the uncertainty and confusion that the force is experiencing during the strike after Marikana. Labour practitioners are not happy with the attitude displayed by the police in enforcing an interdict for their employer clients, whether reasonable or unreasonable. Practitioners are obliged to apply for an interdict forcing the police to enforce the interdict on striking employees. This is an inconvenience to the practitioner and more especially the employer who has to pay additional costs to obtain the 'secondary interdict'.

On 12 March 2012, the Minister of Labour published the Labour Relations Amendment Bill proposing amendments to the Labour Relations Act. Amongst other proposals, the Minister proposed an amendment to Section 69 of the Act.

The proposed amendment of Section 69 (12) provides that the Labour Court can grant any relief it deems appropriate, including urgent interim relief when there is a strike or a picket. Section 69 (12) (c) provides that the Labour Court may even suspend a strike in breach of picketing rules.

This proposed amendment to section 69 might appear to be a violation of Sections 23 and 17 of the Constitution as discussed above. The question that should be asked is whether, if the proposed amendment Bill becomes law, it will pass constitutional muster.

COSATU has certainly expressed its disapproval of the proposed amendment by stating that it will have the power to prevent industrial action. The author feels that the concerns raised by COSATU are justifiable when one considers the fact that the employees do not have much industrial muscle to force the employer to bargain in matters of mutual interest as defined by section 213 of the Labour Relations Act.

> "Concerns raised by COSATU are justifiable when one considers the fact that the employees do not have much industrial muscle to force the employer to bargain in matters of mutual interest."

In answering the question on the constitutionality of the amendment, we must have due regard to the two cases that the Labour Court had to deal with recently. Unfortunately, the facts of these cases are common in our country.

In the Blue Ribbon case and the Tsogo Sun case, the striking employees had threatened non-striking employees and intimidated them. In Tsogo Sun they had assaulted and even killed a woman by dragging her. These were clear violations of the picketing rules.

When one looks at the unfortunate facts of the two cases discussed above, the proposed amendment will be effective in suspending the strike due to violations of the rules relating to striking and picketing.

As well-meaning as the proposed amendment is, will it solve the conundrum of the pending dispute? Sean Snyman argues that because the underlying dispute has not been resolved, the strike can be resurrected and thus the same problem can occur. The learned labour practitioner and the newly appointed acting judge of the Labour Court suggest that it may be necessary for the Court to set conditions for the lifting of the suspension. The said amendment must include such powers to be vested to the Labour Court to make the proposal more effective.

How will the Constitutional Court deal with this amendment if it is made into law and is challenged due to its inherent unconstitutionality? The Court will enquire, in terms of Section 36 of the Constitution (the so-called limitation clause) whether Section 69 (12) is a justifiable limitation of Sections 23 and 17 of the Constitution.

In S v Makwanyane, the Constitutional Court stated that "the limitation of constitutional rights for a purpose that is reasonable and necessary in a democratic society involves the weighing up of competing values, and ultimately an assessment based on proportionality in the balancing process, the relevant considerations will include the nature of the right that is limited, and its importance to an open and democratic society based on freedom and equality, the purpose for which the right is limited and the importance of that purpose to such a society; the extent of the limitation, its efficacy, and whether the desired ends could reasonably be achieved through other means less damaging to the right in question."

Through the dictum provided by the highest court in all constitutional matters, the author is of the opinion that the proposed amendment to Section 69 will pass constitutional muster.

In a country such as ours where we see a number of violent strikes and where picketing is not as peaceful as it should be, the amendment is welcomed. The power of the Labour Court to suspend a strike will discourage violent protests and help to restore labour peace and put an end to labour unrest. ■

Castle Lager becomes official partner of the Sport Industry Group

Graeme Smith

South African Breweries

The South African Breweries (SAB) will partner with the Sport Industry Summit 2013, the country's flagship sport industry conference and the Sport Industry Awards 2014. This was announced earlier this month by the The Sport Industry Group.

SAB's flagship brand, Castle Lager, has sponsored sport in South Africa for over 54 years and has been the inaugural sponsor of both Bafana Bafana and the Proteas since the country's return to international sport in 1992. Lion Lager was the original sponsor of the Springboks, which was later switched to Castle Lager as the iconic South African beer that supports all three of our top sporting codes – 'Bringing South Africans together to support their passion.'

Backed by its Founding Supporters, Cricket South Africa, the South African Rugby Union and the South African Football Association, the Sport Industry Summit 2013 will once again bring together the entire industry on 24th October in Johannesburg to discuss the state of South African sport with emphasis on Governance, Ethics, Sponsorship, Stadia and Community.

On 5th February 2014, The South African Breweries will be backing the Sport Industry Awards, the flagship black-tie event celebrating the very best in South African sport business achievement.

Alastair Hewitt, General Manager of Castle Lager and Sports Sponsorships at SAB, said: "We are extremely pleased to partner with the Sport Industry Summit 2013 and Sport Industry Awards 2014. Our support of the sport industry represents our firm commitment to South African sport and its continued development."

James Monteith, Managing Director of the Sport Industry Group, added: "SAB's extensive and historic involvement across South African sport is a credit to both the company and the strength of our sporting institutions, and we are proud to work alongside these great brands as the South African sport industry goes from strength to strength."

The Sport Industry Summit, staged at Deloitte's stunning Johannesburg headquarters on 24th October, will bring together the leading figures from South African sport industry to network, engage in high-level panels and workshops and exchange ideas. Speakers and session-leaders include David Walsh, Chief Sports Writer of the *Sunday Times*; Amadou Gallo Fall, head of the NBA in Africa; Imtiaz Patel, Group Chief Executive Officer of Multichoice South Africa; Jenny Pfeiffer, Head, Group Brand and Sponsorships at Standard Bank; Rodney Swigelaar, Director of WADA Africa; international sports lawyer David Becker; Thomas Jankovich, Innovation Strategy leader at Deloitte; James Hutchison, Commercial Director at Superbru; Yolanda Arendse, Chief Marketing Officer at EXP Marketing; and many more. ■

"Backed by its Founding Supporters, Cricket South Africa, the South African Rugby Union and the South African Football Association, the Sport Industry Summit 2013 will once again bring together the entire industry on 24th October in Johannesburg to discuss the state of South African sport with emphasis on Governance, Ethics, Sponsorship, Stadia and Community."

SAB The South African Breweries

Gender-based politics should extend beyond the struggle against patriarchy

Underlying the concern and anxiety of patriarchy over the changing role of women is a profound suspicion of the new ideas emanating mainly from the feminist movement.

By MP Khwezi Ka Ceza

It is worth celebrating Women's Month, even though this respect should be accorded to women throughout our daily lives. However, this should not stop us from continuously conscientising both men and women about new challenges. The relation of women to men is one of the most contested terrains.

Controversy also arises over the rights of the two sexes. It is never clear if these rights are identically equal in all circumstances or are there certain contexts in which discrimination in favour of men or women could be more equitable and egalitarian, and where identical treatment would be less so. The role a woman is expected to play in the public sphere and in society at large and whether this role can be reconciled with her assumed basic role as the mainstay of family life also ignites a heated debate. The nature of her 'basic role' is also contested, as is the 'basic role' of a man.

Related to the issue of women's social role is the absurd question of the manner in which she is to mix with men outside the circle of close relatives and family members, how she is to dress in public, and so on. Controversy is strong, particularly in circles where patriarchy rules. Underlying the concern and anxiety of patriarchy over the changing role of women is a profound suspicion of the new ideas emanating mainly from the feminist movement. The question is raised as to whether and how often we are prepared to accept and celebrate the intellectual and empathetic capacity and humanitarian dimensions of our women, rather than judging them by their physical beauty and sexual appeal.

The constant debate on gender politics seems to be an essential part of every subject, be it political representation, employment equity, crime, ad infinitum. There can be no denying that South African women, Black in particular, have endured a historical myriad of oppressive laws and all forms of patriarchy. To date, they still constitute the majority of the chronically poor, landless, unemployed and under-employed. This is manifest in the way that many of them are either eking out a living in the informal sector or are perpetual casual labourers as a

result of continued exploitative labour practices. A case in point is the plight of farm workers, who remain the 'property' of other people through homelessness and where young and adult women who do general, unskilled and semi-skilled work are subjected to oppressive, exploitative and dehumanising conditions in this nebulous Rainbow Nation of ours.

More often than not, these women are victimised verbally, physically and sexually as a result of skewed power relations between them and their employers. We can boast the most progressive Domestic Violence and Labour Acts that have on paper guaranteed the rights of domestic workers, but unless and until our society's racist and elitist attitudes towards women change, these rights remain only on paper. As long as structural conditions such as socio-economic circumstances have not changed, gender-mainstreaming will remain just another nice concept.

However, given that almost all spheres of life are patriarchal in nature, women should not be content with putting all the blame on men. In order to liberate themselves, they have to be active participants in this struggle, as opposed to being willing assistants in oppression. In view of the fact that women have made a historical legacy in the struggle to achieve the current dispensation, they need to continue to be self-assertive, self-reliant and challenge men's sense of superiority over them. Women have allowed their continued marginalisation by the corporate sector and their stereotypical depiction by the media, the arts and other agencies of socialisation. The advocacy for the formulation and implementation of laws advancing gender equity should be accompanied by intensive re-socialisation programmes in the form of awareness, educational and training initiatives on the politics of gender and the relations between the politics of race, class and those of gender. It is necessary for both men and women to have a deeper grasp on how socio-economic issues, racism and patriarchy work and how they complement each other. Our understanding of gender politics should be grounded on the peculiarities and particularities of the historical and material conditions of our country, region and continent

> "Women have allowed their continued marginalisation by the corporate sector and their stereotypical depiction by the media, the arts and other agencies of socialisation."

Furthermore, it is argued that some South African women have a PHD (Pull Her Down) syndrome. Many women as well as men succumb to class-consciousness and discriminate against each other according to social status, religio-cultural and other backgrounds. Many have bought into the myth of corporate 'beauty' as a currency which values women, thereby designating what is most probably half of the world's population unworthy - unless they buy into the myth. They have made it easier for global industries and multinational corporations to exploit them by entrenching dependency on the creation and sustenance of their so-called 'beauty' products. No one who is in their right state of mind would deny the fact that the diet industry has left many women around the world looking like a bones and skin structure, suffering from eating disorders, anorexia and even death in some cases.

> "However, given that almost all spheres of life are patriarchal in nature, women should not be content with putting all the blame on men. In order to liberate themselves, they have to be active participants in this struggle, as opposed to being willing assistants in oppression."

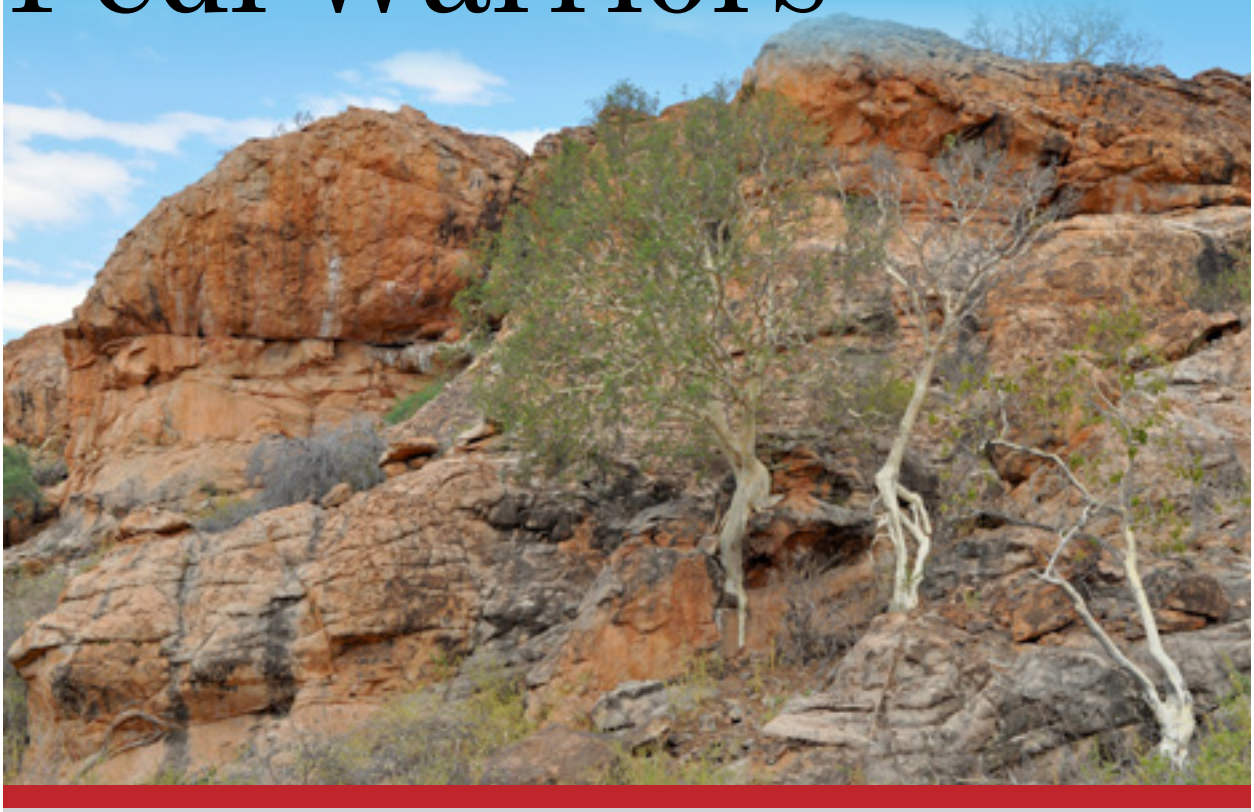
Furthermore, the cosmetics industry continues the rampage of its colonial legacy, where both sexes seem to regard a fair-looking skin to be superior and more beautiful than a darker one. To those who claim to be using 'human' hair, a question may be asked as to where the original owners of the hair they are using are. It could be called Dark 'n Lovely, Black Like Me or whatever, but the end result is contrary to an African look.

The least said about the porn industry, the better. It is enormously pervasive and has become a pseudo-culture, as seen on reality television, music videos, and magazines, including on the internet. It is an undeniable truth that sex and controversy have maximum appeal in our media and clothing industry. Even products such as penis enlargements are advertised using images of seductive nude women, despite the fact that what is being advertised is not applicable to their own sexual organs. Many women are continuing to allow themselves to be exploited. They have been brainwashed to think that their only valuable quality is 'hotness' (seductive appeal) and sexuality, at the expense of qualities such as their intellectual capabilities.

There can be no gender equity, as long as elitist women perceive some like rural working class women to be inferior, and as long as structural racism, inequitable socio-economic and unequal power relations exist. This, of course, also applies to the unequal power relations amongst men and their patronising attitudes. The practical reality is that socio-economic issues concern the rural working class more than civil liberty issues concern the elite, though it is also a sad reality that the former's civil liberties are throttled the most. The fight against patriarchy, racism, sexism and socio-economic injustice is interdependent, inter-related and inclusive. ■

NTSWANENG HERITAGE SITE

The Stronghold of Pedi Warriors



Wolseley decided to launch an all-out attack on the Pedi capital. But he soon discovered that 'even brave men view the Ntswaneng mountain and its defenders with superstitious awe'.

By Amos Tebeila

On 24 September we celebrated National Heritage Day. Heritage Day means different things to different people in South Africa. In the far North, in Limpopo province, we have the Mapungubwe and Ntswaneng Heritage sites.These are where the Pedi cultural and traditional artifacts like the golden rhino and traditional weapons were discovered. I however, want us to focus our special attention on the Ntswaneng Heritage site where the Pedi warriors under Sekhukhune fiercely fought the Boers and their Swazi ally.

Wolseley, the British army commander, demanded that Sekhukhune I of the Pedi tribe accept British rule, pay a heavy fine and pay taxes. Sekhukhune I was uncertain how to respond but at a large public meeting held to discuss the issue the popular feeling on the matter was crystal clear. The people refused to be subject to the British who compelled their subjects to build forts and work for them. The Pedi under Sekhukhune said: *"Rather than be in the position of a subject tribe, we will fight. We won't pay taxes before we have had a good fight for it."*

Wolseley decided to launch an

all-out attack on the Pedi capital. But he soon discovered that 'even brave men view the Ntswaneng mountain and its defenders with superstitious awe'. He realised that taking the capital could mean the loss of many men and, like his oppressive predecessors, he turned to the Swazi kingdom for help. They sent 8000 warriors to join the campaign, accompanied by Mampuru, Sekhukhune's defeated rival for the Pedi throne. Besides the Swazi regiments, the army consisted of 3500 white troops and 3000 Transvaal African auxiliaries. The Ndzundza Ndebele, motivated by their conflicts with the Pedi, and anxious to find favour with the British, contributed a substantial part of the last-named component.

While the army Wolseley assembled was more than three times the size of the force put in the field by the ZAR in 1876, the Pedi state had been weakened by more than three years of almost continuous war and drought and the secession of powerful chiefdoms. By 27 November 1879 the main column was within three miles of the Pedi capital, which was located in a fertile, flat-bottomed valley formed by a fold in the Leolo Mountains. The town, which consisted of some 3000 huts, had been built in the angle made by the eastern range of the mountains as they curved, partly closing the valley to the South. Cultivated lands stretched along the valley floor, the huts nestled along its edges and encroached on the mountainside. These slopes were fortified by line after line of stone walling, with small forts at regular intervals. Long lines of rifle pits had been dug along the exposed perimeter of the town. In the heart of the valley was a hill, known as Ntswaneng by the defenders and Fighting Kopje by the attackers. It was a mass of rock and tumbled boulders 46 metres high, honeycombed with caves which were protected by stone breastworks. It was intended and destined to be the last line of defence.

Wolseley's plan of attack was that the main column would approach the town along the valley. But the Swazi regiments would descend upon it from the top of the mountain which lay behind it. At 4 am on 28 November, the British artillery fired the first shells. Under cover of this shelling two attacks were launched but were halted by heavy fire from the defenders. Wolseley and his troops anxiously awaited the arrival of the Swazi army. When it finally appeared it had a decisive impact. It was greeted with deafening cheers from the troops below and sighs of relief from Wolseley and his staff. The Swazi stood poised against the skyline with their assegais and shields, an awesome spectacle.

The Pedi regiments were unprepared for an attack from the rear. With the advantage of surprise the Swazi swept down the mountain, sustaining heavy casualties but driving the defenders before them. The Pedi army was trapped between the descending Swazi and the British troops who pushed forward, emboldened by the daring of their allies. A terrible carnage ensued. By 9:30 am the valley sides had been cleared and the town was in flames.

> "More than 1000 Pedi were killed during the attack and Swazi warriors continued the onslaught for another ten days capturing women, children and cattle."

Ntswaneng, however, remained undefeated despite a combined Swazi and British attack. After heavy fighting the assailants reached the summit, but the maze of caves within Ntswaneng remained crowded with men, women and children who refused to surrender to their attackers. Large charges of explosives were placed at the cave entrances to destroy the stone defences and terrify the occupants into submission. Even the explosion did not have the desired effect as none of those within the caves surrendered and, in some cases, the fuses on the charges were cut. As night fell, heavy rains drenched the valley. Taking advantage of these conditions the Pedi emerged from the caves and fought their way out past the besieging forces.

The day's fighting took a heavy toll on the lives of both the attackers and the defenders. Only 13 white soldiers were killed and 35 wounded but between 500 and 600 Swazi died and many more were wounded. More than 1000 Pedi were killed during the attack and Swazi warriors continued the onslaught for another ten days capturing women, children and cattle. Wolseley observed it with grim satisfaction, writing in his diary:

"My object is to strike terror into the hearts of the surrounding tribes by the utter destruction of Sekhukhune, root and branch, so the more Swazi raid and destroy the better my purpose is effected."

On 2 December, Sekhukhune I was tracked to a cave deep in the Leolo Mountains, captured, and taken to prison in Pretoria. In 1881 the restored ZAR government released Sekhukhune I from prison and allowed him to return home. He and Mampuru jockeyed for the position of chief. In 1882 a band of assassins sent by the latter stabbed Sekhukhune I to death. Mampuru sought refuge from reprisal in the domain of Ndzundza Ndebele under its ruler called Nyabela Mahlangu. In 1882, Nyabela Mahlangu, refused to hand over Mampuru, claiming that he had swallowed him alive. He said, if they wanted him they had to cut his belly open and take him out. War was declared and a Boer commando force of 2000 men, along with African allies, set out to attack Ndzundza strongholds. The Boer forces laid siege to the capital, Erholweni, and other strongholds. They captured Ndzundza cattle and destroyed their crops. After 8 months of war the inhabitants were starving and people tried to survive by eating cattle hides, tree bark, insects, lizards and grass to try to ease their hunger. Eventually in July 1883 Chief Nyabela Mahlangu surrendered. He was tried and sentenced with Mampuru to death but this was later changed to life imprisonment. But Mampuru was shown no mercy and on 22 November 1883 he was hanged in Pretoria. ■

THROUGH A CREATIVE LENS

Afzal Moolla is angered by the abuse of three words which 'have nurtured our dreams', and vows to reclaim them and restore their original significance. These words represent the ideals we strive for, and their violation undermines our human dignity. Boitumelo Khumalo describes how poverty can also work to undermine the dignity of its victims.

The Art of Word-Jacking
Afzal Moolla

'Freedom'
'Justice'
'Democracy'.

Three words,
lost to us.

Plundered by the few,
stripped naked and ravaged,
pummeled into submission.

Three words,
taken from us.

Usurped so casually,
stolen and cleaved,
left meaningless.

Three words,
strangled and violated.

No more.

Not today.

Today, we reclaim the ideals,
the billion voices,
all straining to be heard.

Today, we take back our truth,
our collective aspiration,
still yearning for the harvest.

Today, we sing the hymns of freedom,
as we gather at the gates of justice,
while mourning the paralysis of democracy.

'Freedom'.
'Justice'.
'Democracy'.

Three words,
that we shall wrest back.

Three words,
that have nurtured our dreams.

'Freedom'.
'Justice'.
'Democracy'.

Three words,
for which we all have bled.

Three words,
word-jacked and abused,
that are ours once more.

'Freedom'.
'Justice'.
'Democracy'.

Three words,
that shall remain tightly wrapped,
around our collective core.

Afzal was born in exile in Delhi, where his father was deployed by the ANC as its Representative in India. Afzal travelled wherever his parents' anti-Apartheid work took them, spending time in Egypt and Finland. He now lives and works in Johannesburg.

Poverty
Biotumelo Modise ka Khumalo

It came...
Came and took...
That is all it does,
Take
It took my pride,
Dignity
Love
Peace
I slept with them,
that's when it took my virginity, my dignity
I went through dustbins, my pride faded
I screamed at and fought with everyone... Peace was gone
I said No, inside, but my eyes said yes
To...
To the men that came and went,
the miners,
the contract workers, the married men,
the drug lords...
All the men around
They paid with...
A meal to silence the growling stomach
A puff of cocaine
to drown my sorrows
I did not know my worth
It was because of...
My empty stomach
Poverty!

Boitumela is a new young poet we have not published before. She is a confident, energetic and outgoing person, born and raised in Jo'burg, but with roots in KZN. She has a passion for writing, loves jazz music has a strong voice that matches her personality. She reads a lot and is very interested in politics. She currently works as a fundraiser.

Ekurhuleni

It may be just in its teens but the City of Ekurhuleni, found in the heart of the Gauteng province, is set to be the first aerotropolis in Africa.

Spread over 15.6% of Gauteng's land, it houses 5.4% of the country's population and 29% of Gauteng province's population.

The city has a rich historical history, having played host to the negotiations for a new democratic South Africa. From December 1991 to November 1992, South African political leaders met at the World Trade Centre in Kempton Park, situated in Ekurhuleni, for the negotiation of a new South African nation. Under the courageous leaderships of Nelson Mandela and FW de Klerk, backed by representatives from more than 30 diverse political formations, the threat of civil war was averted and the transition to a democratic dispensation was made at the Conference for a Democratic South Africa (CODESA) negotiations.

economy

The economy of the Ekurhuleni region is larger and more diverse than that of many countries in Africa, including all the countries in Southern Africa. It accounts for nearly a quarter of the Gauteng province's economy which, in turn, contributes over one third of the national Gross Domestic Product.

Ekurhuleni contributes about 7% to the country's spending power and another 6.2% to its production. In the majority of indicators of economic activity, namely per capita income, unemployment, poverty, average wages as well as other indicators of human development, it is similar to the rest of Gauteng.

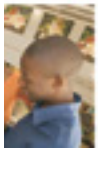
It has the largest concentration in Gauteng, South Africa and Africa of industry for the production of goods and commodities; which is why Ekurhuleni is often referred to as "Africa's workshop". Manufacturing in Ekurhuleni accounts for 32% of its total production output, and 26% of the GDP of Gauteng.

infrastructure

The network of roads, airports, rail lines, telephones, electricity grids and telecommunications, rivals that of many cities in developed Europe and America. This infrastructure supports a well established industrial and commercial complex.

South Africa's largest railway hub is in Germiston and this links the city to all the major population centres and ports in the Southern African region. Many of the country's modern freeways and expressways crisscross one or other part of Ekurhuleni, connecting it to virtually all provinces, and many of the country's major cities.

The Maputo Corridor development, South Africa's most advanced spatial development initiative, connects Ekurhuleni with the capital of Mozambique and Southern Africa's largest Indian Ocean port. It is also linked directly via rail, road and air to Durban, South Africa's biggest and busiest port.



moving with the times

Ekurhuleni is home to the busiest international airport in Africa. The OR Tambo International Airport has more than 14 million passengers passing through its doors annually.

living the vision

This airport services the entire African continent, and links to major cities throughout the world. Many of the world's leading airlines fly directly into the OR Tambo International Airport. On the domestic front, a number of smaller, mostly domestic airlines connect various South African and regional towns and cities via this airport.

The city very much a part of the development vision and plans of the Gauteng province. The Province's Blue IQ projects situated within Ekurhuleni include the Wadeville-Alrode Industrial Corridor, which has linkages to the City Deep container terminal. The Gautrain rapid rail link facilitates convenient, safe and rapid movement of passengers into and out of our shores and an Industrial Development Zone at the airport has been announced by the Gauteng province.

The city's strategic approach to economic growth and development will be realigned to new realities, challenges and opportunities in taking it to being the first aerotropolis on the African continent. An aerotropolis is a city built around an airport offering its businesses speedy connectivity to their suppliers, customers and enterprise partners nationally and world wide.

strategic planning

For the next five years the city has planned to optimise the existence of the airport in its space together with other key development nodes, including the identified industrial development zones under the development of the Aerotropolis Strategy. This will entail investment on new economic infrastructure to support logistics, distributions and related green industries. This will be coupled by the optimisation of the broadband ICT infrastructure to realise the vision of the Digital City and to reposition the metro as a visionary smart city that is globally competitive.

interesting facts

State of Ekurhuleni

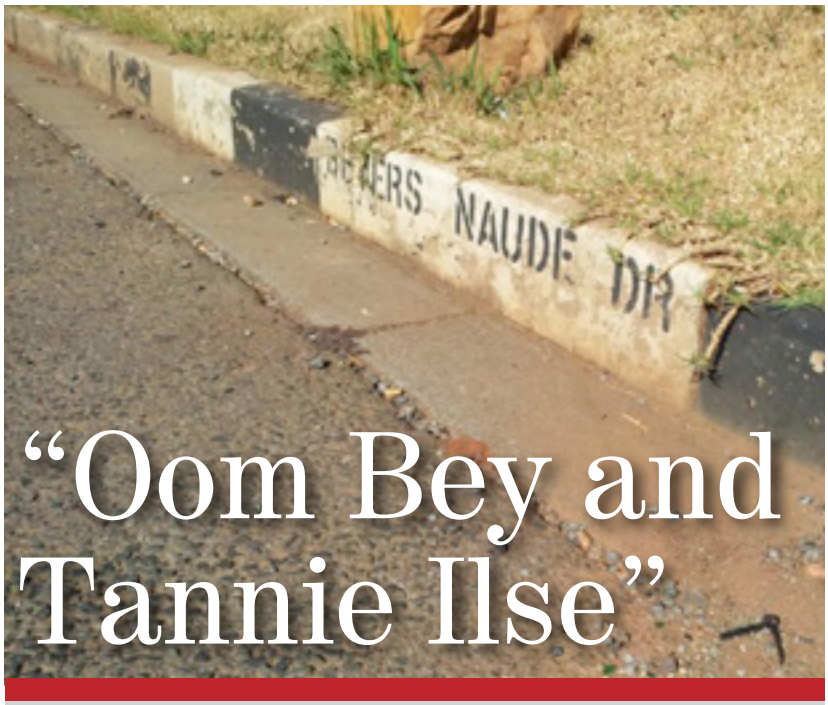
- Contributes 6.25%to national production;
- A share of +- 7.3% of national employment;
- 26% of the total economic output of Gauteng;

Sector Analysis

- Manufacturing – 32% of GVA;
- Finance – 21% of GVA;
- Community Services – 17.3% of GVA;
- Trade – 12.4% of GVA;
- Construction – 3.5% of GVA;
- Mining – 1.5% of GVA.

City of Ekurhuleni

a partnership that works
www.ekurhuleni.gov.za



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"Oom Bey and Tannie Ilse"

An Afrikaner and his wife in the struggle against Apartheid

By Thembile Ndabeni

Beyers Naude, the famous white anti-apartheid activist came from a conservative background. He was named after one of the Boer generals, Christian Frederick Beyers, who resisted the participation of Afrikaners in the First World War, followed in the footsteps of his forebears, and became a member of the Afrikaner Broederbond. People who claim to be Christians while they are racist at the same time contradict themselves. Very many Afrikaners did evil things under the banner of Christianity.

Beyers's parents did not follow the traditional custom of naming their child after his maternal grandfather in favour of conservative Afrikaner nationalism. His father was a staunch Afrikaner who participated in the South African War (1899-1902). His father was one of the Boer delegates to the Peace of Vereeniging in May 1902 and with others refused to sign the treaty or lay down their arms; a religious Afrikaner conservative of Voortrekker descent.

Beyers became a dominee (minister) of the Dutch Reformed Church (Nederduits-Gereformeede Kerk or NGK). Despite his family background he steadily became fully conscious of the political situation in South Africa. He gave early evidence of his independent mind, and this inevitably led him into conflict with his parents. He initiated the journal, *Libertae*, which marked the start of his expulsion from the Afrikaner Volk. This journal, later called *Pro Veritate*, caused considerable shock and tension in his family and community.

His family and the Volk never forgave him for repudiating the Broederbond. As a result he could expect two things: endangerment of his life and a relentless campaign against him. He survived the former, but was left with the latter. Ryan (1990:86) writes "The Broederbond became concerned about this dangerous drift toward independent thinking and decided to strike back".

The Broederbond had set the precedence for the church and the state to oppose Beyers Naude. In this regard the Broederbond stated clearly that "The Afrikaans churches cannot allow the formation of groups outside or within the church to continue" (Ryan, 1990:87). It is evident that membership of the Broederbond meant loyalty without resistance. Randall (1982:40) further writes:

"Here then was Beyers Naude, at the age of sixty-two, faced with another new beginning. Restricted to the Johannesburg magisterial district, unable to attend meetings of any kind, whether social, political or religious, unable to be quoted, unable to speak in public or to write for publication, unable to enter black townships, factories or any educational institution, compelled to report like a common criminal to his local police station every week - in short, subject to the usual provisions of a 'restricted notice' which the minister is empowered to impose arbitrarily without the right to appeal - under these conditions, Naude faced a major readjustment at an age when men are content to live in retirement."[3]

Beyers or "Oom Bey" gradually became a fighter against injustice. As the son of a founder of the Broedebond, "an apple that fell away from its tree", he joined the struggle against the repressive system that was created by his forebears when few had the opportunity or willpower to resist. He also challenged Piet Retief's perception of people like him as 'traitors'. Piet Retief, whose perception "Oom Bey" ignored, was not just a Boer leader, but an Afrikaner master-race supremacist ideologue, who poisoned the minds of many Afrikaners including the educated and men of the cloth. Instead he went further and opposed one of the most extremist Afrikaners, the Conservative Party leader, Dr Andries Treunicht. Davies, O'Meara and Dlamini (1984:275) write about Treunicht, "His major critic was the then moderator of the Transvaal NGK, Dr Beyers Naude"[4]. The reason for this was that "Oom Bey" remained true to the Bible, as he quoted, Acts (5:29) that he had to obey God rather than man. He was first and foremost prepared to be imprisoned by his own, instead of betraying the other people also created by God, and fighting a just

struggle against apartheid which the United Nations had declared a crime against humanity.

Randall (1982:38) writes, "In October 1976 judgement was given in the Pretoria Supreme Court on Naude's appeal against his conviction for refusing to testify before the Commission of Inquiry into Certain Organisations in 1973… Dr Naude consequently presented himself at the Pretoria magistrate's court, intending to go to prison rather than pay the R50 fine imposed on him. After a night in custody he was released when, unknown to him, his fine was paid by the minister of the Parkhurst NG congregation where the Naudes worshipped"[5]. There was a reason why he refused. As Boraine (2008:96) points out, "Beyers Naude's sin in the eyes of the Schlebusch/ Le Grange Commission was that his ultimate allegiance was not to a political party, to a language, to skin colour or even the state, but to God. History will judge Dr Naude not as a danger to the state, but as an urgent warning to South Africa"[6]. This was the apartheid commission established to suppress all the progressive organisations and structures which were a thorn in the flesh of the evil apartheid master-race machinery.

His wife "Tannie Ilse" was supportive and compassionate. She was her husband's pillar of strength and his secretary in the Christian Institute which challenged the apartheid state. That was confirmed by their oldest son who said his father would never have achieved what he did in the fight against apartheid were it not for his mother's strength. This is why honourable advocate George Bizos says that when you talk about "Oom Bey", you must say the following, "An Afrikaner and his wife in the struggle against apartheid'.

Part of being in the struggle was mentoring students of the class of 1976, like Cyril Ramaphosa[7]. He also managed to influence his own community, the white community. One of the people he encouraged through his active stance was Alex Boraine who later became the deputy–chair to Archbishop Tutu in the Truth and Reconciliation Commission (TRC). Boraine (2008:303) writes "I was strongly influenced by Beyers Naude, who bravely took a stand against apartheid"[8]. As a fighter for justice, he was also concerned about the safety of fellow-fighters. Jay Naidoo (2010:195-196) points out:

"Beyers Naude arrived at our home with some money and said 'Your friends want to upgrade the security. We are worried about you and your family'"[9]. He was a humane person who was concerned about people and part of those were ready to sacrifice their lives for a just and noble course.

One of his closest clergy companions and comrades against apartheid was Dr Allan Boesak. He said the following of "Oom Bey":

"Beyers was my special friend and a mentor. I first met him in 1963. Although many Afrikaners were known to be pro-apartheid, Beyers refused to join them. He was always doing everything in his power to crush the apartheid regime. When he stood up against racism and violence, he did so fearlessly without fear of his fellow Afrikaners. Indeed, Beyers was a true courageous hero in the struggle for justice."[10]

He clearly understood the division and hatred that apartheid created between the national groups of his country, the country he loved so dearly. He was not only informed about how whites in general, but also how Afrikaners in particular were indoctrinated to oppress Blacks. But he also realised that Blacks perceived the majority of Whites as bad people. It is amazing that he was close to Black Consciousness, an ideology fighting apartheid yet it treated Whites with scepticism and the supposed *Charterists* who it criticised for involving Whites in the struggle. That was the fundamental reason his comrade Bishop Tutu said, "Beyers helped Black people to not hate White people by showing them that not all White people are bad"[11].

After the state repression closed all avenues that challenged apartheid, "Oom Bey" – like all fearless combatants in a war - resorted to another option, the underground. Kleinschmidt (*Cape Times*, 16 May 2013) confirms by saying "… those like him who worked with underground structures. Beyers's letters meticulously recorded how he became a massive conduit for funds to people and organisations that operated illegally or semi-legally. It is remarkable how much those whom he worked with in secret trusted him". This was not just a compatriot but a true South African of Afrikaner descent, who was prepared to lose all what he had including his life for liberty and justice for all people of South Africa.

At the funeral of "Oom Bey" the former President, Thabo Mvuyelwa Mbeki, said:

"While he lived, Beyers Naude like Prometheus, defied power that seemed omnipotent. He suffered woes, which hope thought infinite. Despite his pain he did not change, falter or repent. He hoped for justice for all his people, both black and white, ready to sacrifice the gift of hope for the realisation of the people's dream for freedom, equality and justice.

"As we grieve because we have been robbed of our Oom Bey, all of us must, today, extend our heartfelt thanks to the Afrikaner people that they blessed us by bestowing on us the gift that was Beyers Naude."[12]

The South African Council of Churches (SACC) also released a statement after Oom Bey passed on:

"On behalf of the SACC and the people of South Africa, we mourn the loss of this great African. We sympathise with the immediate family and the many people around the world who were touched by the compassion and ministry of Oom Bey.

"We thank Aunt Ilse and the Beyers Naude family for sharing the life and times of Oom Bey with so many of us. Oom Bey has been unequivocal in his stance against apartheid. His courage and selfless sacrifice left indelible marks on the lives of innumerable people from all walks of life.

"Oom Bey was active in the international church community, particularly in the World Council of Churches. He encouraged organisations across the world to resist apartheid and was instrumental in the WCC establishing a Programme to Combat Racism. Through such courageous efforts Oom Bey served as voice of conscience and voice of the voiceless masses in apartheid South Africa.

"Even after the SACC made a commitment to be led by a black

South African Dr Naude was appointed as General Secretary and served from February 1985 to June 1987. In 1995 he was elected as Honorary Life President of the SACC."[13]

Former President Nelson Mandela said of them "If someone asks me what a new South Africa should be, I will say look at Beyers and his wife Ilse".

Paying tribute to "Tannie Ilse" at her funeral President Zuma said, "We will always remember Tannie Ilse as the pillar beside her late husband Dr.Beyers Naude, a pioneer of non-racialism and one of the stalwarts of our struggle for liberation both here and abroad".[14]

The President added that: "They both loved and were loved by our people, black and white".

The Gauteng Provincial Government upgraded and improved Beyers Naude Drive in honour of the struggle stalwart who made a gallant contribution to the struggle for a democratic dispensation.[15].

The present day new South Africa should be grateful to those two true South Africans of Afrikaner descent for many reasons.

"Oom Bey" with the support of his wife Tannie Ilse had demonstrated to his own folk, his own people, and people of his own descent what it means to be a true Christian. He really knew the Bible thoroughly and quoted from it resoundingly. This was a very unique contribution by an Afrikaner dominee who challenged the monstrous Apartheid system which hypocritically claimed to be Christian in nature.

Their contribution served as an inspiration to other South Africans in general, and Christians in particular, to confront apartheid rather than accepting it as something natural and impossible to bring to an end.

In South Africa the ensuing struggle was mainly fought through the use of four distinctive measures or pillars of resistance, namely:

- mass mobilisation: the action by the people inside the country, the masses challenging the repressive apartheid system;
- underground work: since repression made it difficult for political activists to operate, they were left with no option but to work underground;
- armed struggle: this was the last option by liberation organisations after the banning order closed political activism; and
- international solidarity: the very complex measure, it meant campaigning around the world for the apartheid government to be isolated in support of the struggle.

From the four pillars it is evident that "Oom Bey" participated in three measures. There seems to be no proof about his involvement in the armed struggle. As stated above, his belief, nationality, stature, character, and calibre counted a lot in preventing him from resorting to violent measures. With regards to mass mobilisation, he was one of the central figures when repression from the apartheid machinery was at its peak. Kleinschmidt confirmed that he was also part of the underground resistance. He also contributed in the international solidarity struggle through his involvement in the World Council of Churches.

An Afrikaner was a white person of Dutch, German or French descent that was indoctrinated with the idea of the superiority of the master race. A dominee was not just an extended arm of apartheid but also its justifier since people believed them especially when they quoted from the Bible. They therefore had a crucial role to play in justifying the racist Aryan race system of apartheid. A member of the Broederbond was regarded as a person who upheld this narrow Aryan race mentality. All these things combined might be expected to lead "Oom Bey" and Tannie Ilse to collude in undermining and oppressing other people. They decided instead to cross the floor.

He became the voice of the voiceless when state repression outlawed and imprisoned leaders and political organisations that were fighting for change in favour of democracy.

The crossing of the floor by these white Christian Afrikaners further justified and consolidated the struggle against apartheid, domestically and abroad.

There were three things which illustrate Tannie Ilse's contribution to the struggle, which was made in a unique unnoticed way: firstly by being a secretary in the Christian Institute which challenged the Apartheid system; secondly by being a support structure to her husband; and thirdly by making their home "a home for all" beyond colour or class.

There are two photos about him that touch me very much because they represent different sides of his life and his struggle. Firstly, a picture of him defying the hippos, the scary armoured vehicle used by the apartheid junta for intimidating and waging a war against the unarmed defenceless oppressed majority. Secondly, a picture of him in the wheelchair, shortly before he passed on, pushed by our icon Nelson Mandela. Being in a wheelchair can represent tiredness after the long road travelled. Being pushed by Mandela can be interpreted as the reward, an honour for bravery in the difficult and dangerous struggle against apartheid machinery.

There has never been a Christian couple of Afrikaner descent who played such a role in the struggle for liberation in South Africa. These two soldiers carried the cross and went through to victory and are now resting on top of their good work. The best way of honouring this couple is by respecting what they sacrificed their life for, a true non-racial, non-sexist, democratic and united South Africa. It should be emphasised that they were true South Africans until the end; for which they will forever be remembered as "an Afrikaner and his wife in the struggle against apartheid". ■

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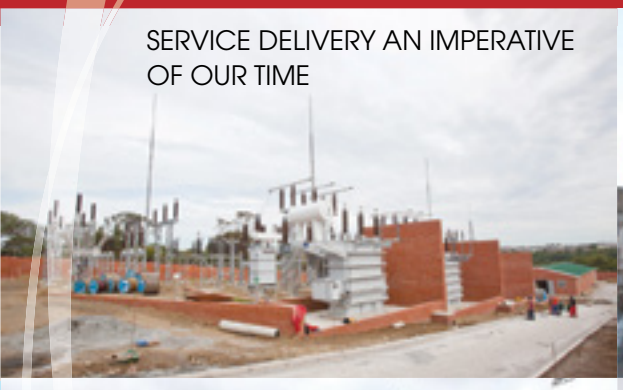

MAYOR'S *Message*

As Buffalo City Metropolitan Municipality, we invested largely on improving our planning processes and the oversight role of the Councillors, as well as the Mayoral Committee, which ensured that the municipality excels in its performance. We also invested in resources, as well as in stabilising and professionalising our administration to improve its efficiency. More importantly, we have also devoted some considerable resources to facilitating community participation in the affairs of our municipality - making it truly people-centred.

The ability of the municipality to spend public resources responsibly has become a critical measure in determining the performance of a municipality since the advent of democratic local government in South Africa, and this has been further enforced through the introduction of the Municipal Financial Management Act in 2003.

As the Metro, we have made some significant improvements in financial expenditure from 38% rate of expenditure in 2011/12 financial year to 70% rate of expenditure in 2012/13 on core service delivery projects. This marks an improvement of 32% in one year, suggesting that this municipality is capable of achieving 100% expenditure in the 2013/14 financial year.

It is essential that the communities continue to engage the municipality to ensure that it keeps to its commitment of ensuring timely service delivery as well as accounting to the people.

We prioritised the electrification of shacks on realising that the perpetuation of illegal connections was increasing the life-risk for a number of innocent citizens, whilst costing the metro considerable revenue.

We are happy to confirm that more than 200 shacks have already been electrified and in this financial year we have set aside an amount of R10 million as part of this project in the interest of restoring the dignity of our people through providing them with electricity as a basic right. Our investment in this project will also pay off through minimising the unnecessary electricity outages caused by illegal connections.

Soon we will be rolling out an awareness campaign to highlight the dangers of illegal connections. We have a constitutional obligation to ensure that our people live in safe and secure environments. We trust that our people will embrace this campaign as it seeks to address their plight. In areas where there are bottlenecks, we have asked our administration to address such hindrances.

It should be acknowledged though, that these successes would not have been possible without the valuable input of the Finance Oversight Committee, the Municipal Public Accounts Committee, the Executive Mayoral Committee, and the entire Municipal Council, as well as the Administration led by the Municipal Manager for their unwavering commitment to excellence in service delivery.

Cllr. Zukiswa Ncitha
Executive Mayor
Buffalo City Metropolitan Municipality

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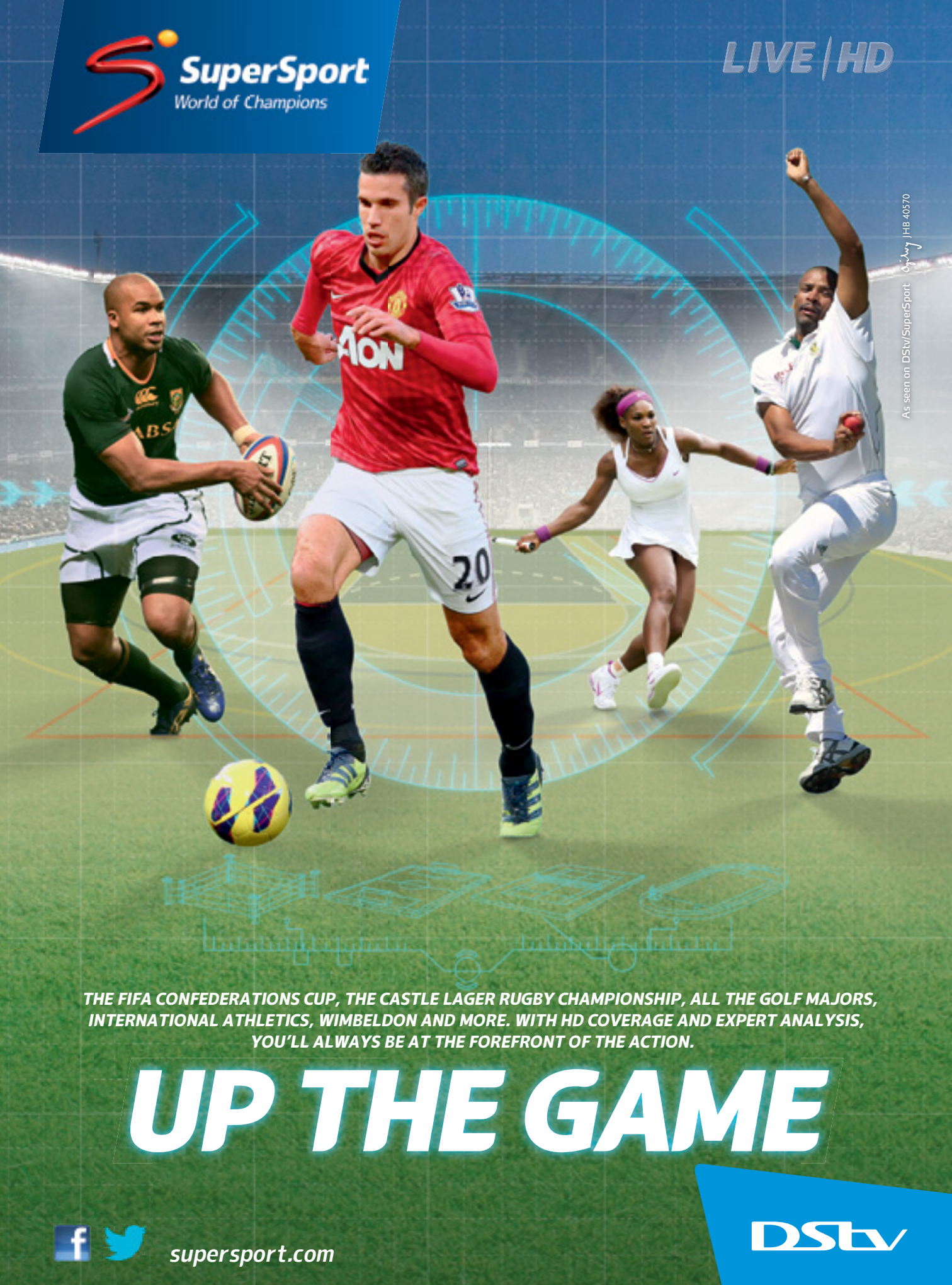
METROPOLITAN MUNICIPALITY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