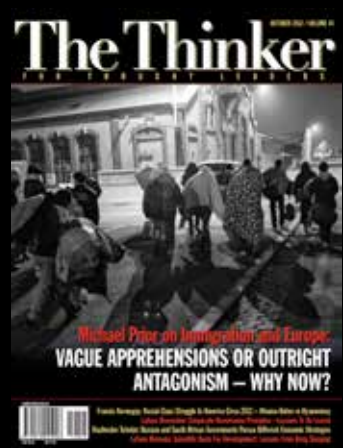
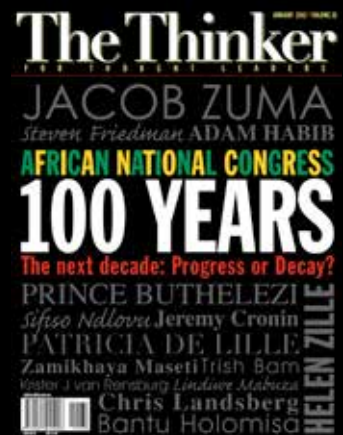
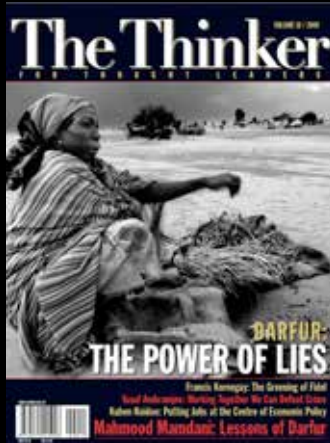
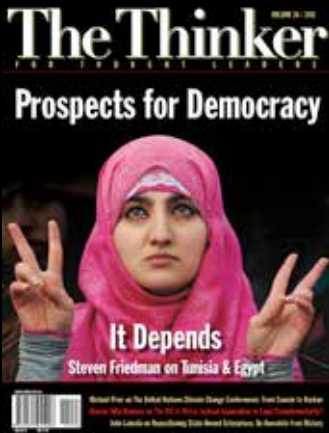


# The Thinker

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JP Landman on The Growth Gap  
 Garth le Pere on Reflections on the Afro/Arab Spring: A Revolution Betrayed?  
 Claudio Lema Pose on Child Rights in Transitional Justice  
 Suresh Roberts on History Arrives as Tragedy and then Repeats Itself as Farce  
 Morley Nkosi on American Mining Engineers in South Africa

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## On the Cover:

We believe that we provide a vital space for people to express their ideas.



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# The Thinker at 50



When the inaugural issue of *The Thinker* was published in March 2009 we were in uncharted territory. For two years the journal was run as a partnership between the editor and Ajay Gupta. This partnership was terminated amicably and by mutual agreement in April 2011.

As we set out on this journey there were the usual sceptics and cynics who opined that *The Thinker* was going to be no more than a front for the views and opinions of the former President Thabo Mbeki and if not, a propaganda arm of the ANC.

However, there were many well-wishers who encouraged us to continue publication as they saw the need for such a journal. In the first issue we published ground-breaking interviews with Thabo Mbeki and President Zuma. When asked whether there was a need and space for such a journal, Mbeki said: "I warmly welcome the publication of *The Thinker* and congratulate you, Ajay Gupta, and everybody concerned for this initiative. Perhaps at no other time, for some decades, have we had greater need for a journal whose contributors and readers are "thinkers". I say this because, in reality, our country suffers from a

deadly dearth of such publications, and therefore a deeply disturbing poverty of well-informed and genuinely serious debate about our national challenges first of all, as well as within the African and global setting. For our country to achieve the fundamental objective of its reconstruction and transformation, in the interest of the masses of our people, it is critically important that our intelligentsia must discharge its responsibility to supply the nation with large numbers of 'public intellectuals'. I sincerely hope that *The Thinker* will provide the space and encouragement for these 'public intellectuals' finally to speak out and address the important challenges we face."

In response to the same question, Zuma said: "I think that *The Thinker* is a necessary addition to the Media landscape. It is timely since it comes as we enter 15 years into our democracy and as yet we do not have a publication as envisaged by yourselves. For your journal to succeed it has to be objective, independent and honestly express views about the pressing issues facing us in South Africa the region and the continent. Hopefully such an approach could offer our people a more balanced perspective of developments in our country, region and continent. I do appreciate the endeavours to add a critical voice in the political and intellectual discourse unfolding in South Africa. I would also suggest that *The Thinker* has a balanced view and assessment of personalities and not just an intrusion into the lives of people. I am very happy at this initiative which seeks to bring a new perspective to the unfolding story of South Africa, the region and the continent."

The editors and staff of *The Thinker* remain convinced that there is a continuing need for such a journal. Our survival is the result of a number of factors, but we should like to single out three important categories of people who have made it possible:

- our contributors, who include



some of our foremost analysts and columnists, and have written for us on a pro-bono basis;

- the advertisers, who continue to give us their vital support; and
- our readers, who are growing in numbers, and whose engagement and enthusiasm encourage and inspire us.

Thank you all for your support.

In this issue we reproduce our very first editorial in which we set out our aims and objectives. We invite the readers to determine whether or not we have measured up to our standards.

The Editor, Dr Essop Pahad, welcomed readers to the new monthly journal, and went on to explain:

"In a highly competitive world, and particularly in the dissemination of progressive ideas, analysis and commentary is no easy undertaking. We therefore trust that all who are committed to the realisation of the democratic ideal of freedom of thought and expression will respond positively to this journal to ensure its continuity and viability.

"Our starting point is that South Africa must be a successful, democratic, non-racial, non-sexist, prosperous country, sharing this prosperity to eliminate poverty and underdevelopment.

"We are convinced that Africa must realise her Renaissance in the context of a world order which, among other



## All contributing analysts write in their personal capacity

**Brenda Kali** is one of South Africa's reputational turnaround and communication strategists. Her extensive thirty year career spans a wide range of genres as author, media specialist and former broadcast executive. Her achievements are many and her experience varied and she has assumed successive high profile positions that helped shape the reputation of several major companies. She has explored the techniques of *Mindful Silence* in an ashram in Puri on the east coast of India over many years and has extended it into the corporate space. A seasoned communicator, she brings a new energy into the business world and her latest book *Beyond Corporate Sludge* provides insights on how to create balance and harmony in the workplace.

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**Thando Ntlemeza** holds BA (Law) and postgraduate LLB from the University of Cape Town. He is an Attorney of the Western Cape High Court. Currently, he works in the Ministry of Justice and Constitutional Development at the Office of the Deputy Minister. Before joining the Ministry, he worked as a Senior Researcher for the ANC at the Parliament of South Africa. He is a member of the ANC PEC Subcommittee on Political Education in the Western Cape. He has provided research and other professional assistance to various Committees of the NEC such as National Legal and Monitoring Team, Content and Copyright Subcommittee of the National Centenary Task Team and National Investigative Task Team on manipulation of list processes. He has written many articles for newspapers and various publications, including *Hlomelang* (ANCYL Publication) and is a regular contributor on the ANC's *Umrabulo*.

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# The Thinker

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**Mats Svensson** has been living in Jerusalem for several years. He started by working in the Swedish Consulate. For the last two years in Jerusalem he has been walking the separation wall in the West Bank from south to north, following house demolitions in Jerusalem and settlement expansions, and documenting life under the Israeli occupation, apartheid and colonialism. He has previously worked in the Congo, Bangladesh, Ethiopia, Eritrea, Malawi and South Africa. ■

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# The Growth Gap



The Plan holds the real promise that SA can become a modern and successful state, a decisive step up from a “muddle through” country. Can we get from “muddling-through” to “making-it-happen”?

By JP Landman

The adoption of the National Development Plan 2030 by both the government (September 2012) and the ANC (Mangaung, December 2012) is cause for celebration. The Plan is an admirable diagnosis of where we stand as a society, where we want to be, and what should happen to get there.

At the basis of the Plan's vision for South Africa in 2030 lies one crucial goal: a growth rate of more than 5% per annum. Without that economic base, it is impossible to beat the triple curse of unemployment, poverty and inequality, at least at the pace we all want.

South Africa has achieved a remarkable turnaround in growth since 1994. In the 16 years before that, the economy grew at an average of 1.55% p.a. In the sixteen years since, it has grown at an average of 3.3% p.a., achieving more than 5% for a few heady years before the global recession of 2009 struck. This doubling of growth is all the more remarkable if one considers that during that period we effectively had two recessions – in 1998 and again in 2009.

However, it now seems as if growth has become stuck. Since 2010 it has averaged 2.8%. For this year, the current consensus is for a growth rate of between 2.5% and 3%. The minister of finance based his budget on 2.7%.

That means that we are a long way from the NDP's target of 5%. The difference between those two numbers, 3% and 5%, constitutes South Africa's growth gap. It may not sound like much, but growth is compounded. The longer we stay at 3%, the more it matters.

At 3% growth, the economy will expand by a quarter over 7 years, creating 2 million jobs. With a population increase of only 8% over the same period, that will leave considerable resources for social progress and development. That is not a scenario of decline and decay, definitely not a failed state. On the other hand, it will not dent unemployment or inequality. The triple curse will remain in force. Let's call it the "muddle-through" scenario.

Contrast that with the vision of the National Plan. The Plan's goal of 5% growth creates a completely different scenario – let's call it the "make-it-

happen" scenario. The overall vision of the Plan is elimination of poverty and a substantial reduction in inequality. To achieve that a number of milestones and critical actions have been identified, but nothing can happen unless the economic foundation is laid, bringing with it more jobs and more social development. The Plan holds the real promise that SA can become a modern and successful state, a decisive step up from a "muddle-through" country.

Can we get from "muddling-through" to "making-it-happen"?

### What is planned

From government's side there is clarity and broad agreement on focus areas to achieve accelerated growth.

“These sectors are all important, but infrastructure and investment are key. Success in the other areas like mining, tourism, and rural development are critically dependent on getting infrastructure and investment right.”

Both the National Development Plan and the New Growth Path list the same 6 industries or areas i.e. infrastructure, tourism, the green economy, manufacturing, mining and beneficiation and agriculture and rural development.

These sectors are all important, but infrastructure and investment are key. Success in the other areas like mining, tourism, and rural development are critically dependent on getting infrastructure and investment right.

### Infrastructure

Impressive plans have been made and budgets compiled. R827 billion (about 7% of GDP) has been earmarked for infrastructure expenditure over the

next three years. That is a solid increase from the 4% of GDP we spent in 2000.

The National Plan envisages that the public sector should spend about 10% to support the path toward that 5% growth rate. Moving infrastructure spend from 7% to 10% of GDP is an increase of over 40%. It will require a significant re-orientation in public budgets.

It does look, however, as if we are getting better at spending the money. In 2010/11, only 68% of available funds were spent. In 2012/13 that has risen to some 81%. President Zuma candidly admitted in his State of the Nation address that infrastructure spending was a learning curve for everybody. Learning by doing. The Presidential Infrastructure Co-ordinating Committee chaired by the president himself should help to improve performance further.

Digging deeper, it is surprising to see where the problem of under-spending lies. It is the public-private-partnerships, national departments and public corporations (largely Transnet and Eskom) that underspent most. The provincial governments spent most of their monies, an astonishing 99%; local governments spent a surprising 86%; public corporations 76%; national departments 61% and public-private partnerships 59%. Overall 81%.

### Investment

Linked to public sector spending on infrastructure and cutting across the growth sectors identified by the National Plan is private sector investment.

The National Plan envisages a total investment rate of 30% of GDP. Traditionally the private sector contributes about two thirds of total investment and the public sector about one third. These numbers may vary in particular years, but that is more or less the ratio. So if the public sector is doing 7% then one would expect 14% or so from the private sector, making a total of 21% of GDP.

In 2011 total investment in the country came to 19%, 7% from the public and 12% from the private sector. It is a far cry from the envisaged 30% and it is clear that both sectors,

but particularly the private sector, would have to lift investment spending dramatically to reach critical mass for 5% growth.

### At the moment that prospect is a stretch.

The bursting of the credit bubble in 2008, tight liquidity conditions and consumers under severe cash flow and employment pressures, have dampened private sector appetite for investment. Only when there is higher demand in the economy will private investment start flowing. (Demand can of course also come from infrastructure spending).

Even so, some of the sectors the National Plan envisages as growth areas are flying high, like tourism. Others have pockets that are flying high, like parts of agriculture, particularly where there is strong entrepreneurship and capital formation, sometimes through corporatisation and large agribusinesses. I remain astonished at the size of farming operations that exist despite land issues, rising costs, crime and the like.

Even mining is growing, in spite of general perceptions. Figures released by minister Susan Shabangu at the Mining Indaba in Cape Town indicate that since 2004 the number of mines has increased by 61% (from 993 in 2004 to almost 1600 now), associated revenue generated grew by 278% (from R98 billion in 2004 to R370 billion by the end of 2011, nominal rands) and employment increased by 18% (from just under 449 000 in 2004 to marginally above 530 000 in June 2012). So much for a sector reputed to be in decline.

However, this progress is already in the numbers, so to speak – it has contributed to the 2.8% growth we have seen since 2010. Clearly mining would have to do much more to help with a 5% growth rate.

Mining and other sectors, though, are not going to contribute much more to growth unless government and business can form effective partnerships to overcome industry problems.

### Toxic atmosphere

Political uncertainty characterised most of 2011 and 2012 as the nationalisation debate and populism

ran rife and sapped confidence. Nationalisation has now been taken off the table and the populists have been reined in decisively. However, uncertainty on the taxation regime for mines and proposed changes to mining legislation still prevails and undermines growth potential.

We need cool heads and calm discussion, but that seems to be in short supply. Just as we thought we could turn a new leaf at the beginning of the year we were faced with outbursts around Amplats retrenchments and FNB advertisements. Frankly, I think parties from all sides contributed to that, as subsequent apologies and changes in behaviour prove. Fact is, the people involved should work together for higher growth. Instead,

“The toxic relationship between the government and private sector must urgently be remedied if we want to plug the growth gap and reach the National Development Plan’s 5% growth target.”

they were engaged in a rather ugly public spat. Government behaviour, like the President calling Amplats’s talk of retrenchments “blackmail”, is really not helpful.

The toxic relationship between the government and private sector must urgently be remedied if we want to plug the growth gap and reach the National Development Plan’s 5% growth target. We need a sense of common purpose. A pre-condition is mutual respect between the private and public sectors. As long as they view each other with the suspicion that currently prevails, the toxicity can only increase.

As in a bad marriage, it is easy to point the finger to the other guy and insist that it’s all his/her fault, that he/she should change his/her behaviour and then everything will be fine. It is my belief, however, that government should take the responsibility that comes with

power and make the first moves.

### Leadership

The single most important requirement for growth higher than 3% is consistent and effective *political* leadership on matters economic. There is regrettably no way around this. Confidence is an intangible item, and in the end it has to come from the top.

Sometimes it requires defiance, sometimes magnanimity, sometimes a vision, sometimes reassurance, sometimes an impression of being in charge. At best it is an intangible aura that is exuded, a kind of magic that people connect with.

If we cannot have the magic, simply efficient management will do: budgets well spent; roads and streets repaired; licenses processed; incompetents fired; evidence that problems get resolved and are not intractable.

Currently, we have neither magic nor efficiency. There is simply not enough of the kind of leadership which could lift us to a higher growth path.

### Three scenarios

Currently SA is in a low-growth trap – less than 3% since 2010 and the same again expected for this year. Obviously this is in a global context of sluggish growth and even recessions in major economies, so one can argue that 2.5% to 3% growth is not that bad. Yet, India and China are examples of countries growing well – certainly more than 3% – in spite of sluggish global growth.

This low-growth trap leaves SA in a “muddle-through” scenario. It is definitely not a “failed-state” scenario. But the mere fact that one has to argue between those two alternatives is not good enough. Most of us (there are a few doom seeking exceptions) want the country to be an unqualifiedly success.

The National Development Plan proposes a third scenario – a “make it happen” scenario where the triple curse of poverty, unemployment and inequality can be rolled back decisively over the next two decades. Our leaders from all walks of life need to up their game and unite us all for a common purpose. Most of all, however, it is the responsibility of our political leaders.

We are a nation who can achieve miracles. Let’s make it happen. ■

## REFLECTIONS ON THE AFRO/ARAB SPRING

## A Revolution Betrayed?



Initially the major external actors like the United States and the EU were totally surprised by the 'Afro/Arab Spring'. The conventional foreign policy wisdom of major powers has now been challenged on all fronts, especially with regard to the sustainability of 'strategic rents' as well as the efficacy of current security doctrines and support for Israel.

By Garth le Pere

The second anniversary of the uprising that toppled Hosni Mubarak in Egypt has been accompanied by extreme polarisation and violence, including alleged gang rapes in Tahrir Square by criminals said to be financed by the Muslim Brotherhood. In Tunisia meanwhile, enraged protestors stormed the offices of the ruling al-Nahda Party following the assassination of Chokri Belaid, a prominent opposition leader and

human rights campaigner. These tumultuous events which occurred in February 2013 suggest that the 'Arab Spring' might be turning into an 'Arab Winter'.

In the broader Afro/Arab region, the waves of protests and social upheavals that drew their impulse from and were emboldened by the North African experience were driven by similar structural factors. Most crucial among these were changing demographic

dynamics and realities, the failure of authoritarian paternalist regimes, and popular demands for greater political participation and representation. However, the revolutionary promise and transformation potential of the protests and upheavals that shook the Arab world largely failed to provide the pan-regional gravitational pull for large scale and durable regime changes that would be democratic in letter and spirit.

While the 'Arab Spring' certainly offered a revolutionary moment in the wider politics of the Middle East and North Africa (MENA hereafter), its long-term impact as a catalyst for durable and sustainable change remains unclear if not unpredictable, as the current situation in Egypt under Mohamed Morsi will attest. There are four preliminary considerations which are relevant and which help to explain why the revolutionary promise of the 'Afro/Arab Spring' might be fading fast.

*Firstly*, very rarely do social movements and popular protests lead to successful revolutions. Across the MENA region, there are only four countries, namely, Egypt, Libya, Tunisia, and Yemen that could be said to be experiencing recognisable levels of post-revolutionary transition but these remain ambiguous and uncertain, and are unlikely to deliver the utopian vision that inspired Tahrir Square. And in the twelve other countries, although ruling regimes have faced sustained pressure and systematic challenges from above and below, they have been able to either suppress or contain these by adjusting to changing vicissitudes in their domestic, regional, and international environments; for how long this situation can be sustained remains to be seen. In other words, since the onset of the 'Afro/Arab Spring', the essence of authoritarian rule has been undergoing redefinition, as ruling regimes seek new ways of simultaneously dealing with the inexorable change that this implies as well as trying to protect an increasingly precarious status quo. A significant aspect of what has been termed authoritarian 'upgrading' has been the ability of ruling regimes to contain any push to broaden the frontiers of political liberalisation, civil society activism, and citizen mobilisation. Even elections have become ceremonial formalities in legitimising the ruling clique and have typically been highly choreographed affairs.

The *second* consideration concerns the comparatively modest demands that initially emanated from the cauldron of protest and social upheaval. This probably has much to do with the post-Cold War temperament (with globalisation as the chief catalyst) which

has seen the decline of the popular influences of Marxism and state-driven agendas for revolutions from above. In the contemporary post-colonial era, it would seem that there has been a shift away from Jacobin-style mass political mobilisation designed to engender large scale social transformation that would otherwise be synonymous with far-reaching revolutionary change. At first, the MENA uprisings were 'self-limiting' in the sense that they focused mainly on calls for individual liberal political emancipation and democratic change rather than pressing for extensive collective economic redistribution, greater political accountability, and social transformation. However, with the collapse of four autocracies

“ At first, the MENA uprisings were 'self-limiting' in the sense that they focused mainly on calls for individual liberal political emancipation and democratic change rather than pressing for extensive collective economic redistribution, greater political accountability, and social transformation. ”

providing the impulse, the critical questions that now arise are as much economic as they are political. Thus, as new ruling elites emerge, how do they go about reorganising the harsh economic and cold political realities in order to meet the unfulfilled needs and aspirations of their burgeoning populations, especially among women and youth? Quite crucially, authoritarian 'upgrading' has also served an instrumental purpose of transforming the barriers between the

public and private realms as well as between the state and the economy, giving rise to the semi-privatisation of powerful fractions of the ruling elite and thus defining the logic of Arab-style crony capitalism. The legacy of this political engineering and the commercial interests it has embedded and promoted in society are highly problematic for political transitions since the majority of the population have a heightened sense of grievance, alienation, and dissatisfaction. This is especially the case among the young shock troops of the uprisings who have been motivated in large part by their own economic marginality and sense of political disenfranchisement.

The *third* consideration has to do with the absence of contemporary revolutionary ideologies and beliefs that bring the uprisings together by providing a vision or *gestalt* of an alternate order. A major part of the 'Afro/Arab Spring' iconography had to do with a new-media savvy, socially-networked youth, and university-educated middle classes. However, it is debatable whether FaceBook and other new technologies can be said to generate ideological frameworks or the kinds of coherent beliefs, values and myths that are capable of sustaining revolutionary change. Satellite television, especially *Al-Jazeera* and other Arab stations, certainly helped to create the demonstration effect and indeed, opened media spaces that played a part in shaping, informing, and broadening the region-wide public sphere; however, these media outlets did not define a new ideological compass for collective action and citizen empowerment. Thus, the movements of the 'Afro/Arab Spring' were hardly united by a concrete or programmatic agenda for post-regime transformation and change. In the aftermath of the Egyptian elections and even in the current context, we saw that Tahrir Square was not Egypt, but then neither was Cairo.

And *finally*, we have to take account of the coherence of the *ancien regime*, old ruling elites, and their ability to either suppress or co-opt rising opposition forces in the face of mounting social pressure for genuine reform. While the logic of authoritarian

'upgrading' certainly helped to reinforce an often repressive status quo, it also subtly helped to change the behaviour and attitudes of ruling elites. In two of the four regime changes, the removals of Ben Ali in Tunisia and Mubarak in Egypt were greatly facilitated by the fracturing of the ruling elite. Very similar to Hussein Tantawi in Cairo, the Tunisian Army Chief of Staff, Rachid Ammar, refused to open fire on the demonstrators. The armed forces in both countries were, therefore, left intact and were strategically placed to influence the form and shape of the respective transitions. In Libya, by contrast, the country's armed forces came up against the heavy and extended support of NATO which led to rifts in the state's security apparatus and this again was mirrored in the highly fragmented nature of the militias who were attempting to remove Muammar Qaddafi. Then in Yemen, while Ali Abdullah Saleh - the key symbol and figurehead of the ruling regime - was removed after a 33 year despotism, there is on-going and intense political contestation for power among compromised old elites who have dominated the transition phase. Hence, without key defections and behavioural changes within the higher echelons of the political or military elite or extended external military support, the youthful revolutionaries who have provided the stimulus for change have not been able to shake the social foundations of oligarchic rule and have increasingly become frustrated, disenchanted, and confused.

These considerations provide a prologue to problematic challenges that further impede the substance and dynamics of genuine reform and greater voice and political participation for ordinary citizens.

The *first* challenge concerns how many of the region's paternalistic and authoritarian regimes have been bolstered by natural resource rents from oil and gas. There are several studies which find a positive relationship between resource dependence and the persistence of authoritarianism. Arab countries account for 61 per cent of the world's proven oil reserves and for 40 per cent of international trade in crude. Although only 10

of the region's 16 countries are significant oil exporters, the political and economic effects of oil are felt by their oil-importing neighbours through migration opportunities and the remittances which flow from these. (In several countries, these remittances constitute a sizeable portion of GDP: 22.4 per cent in Lebanon; 15.5 per cent in Jordan; 6.6 per cent in Morocco; 5.3 per cent in Tunisia; 5.2 per cent in Yemen; and 4.0 per cent in Egypt.) The prevalence of these 'rentier state' dynamics help to establish a key source of regime legitimacy and stability other than through military, tribal, or religious authority.

**“This culturalist school considers values such as individual responsibility, civic participation, inclusion and tolerance as prerequisites for democracy while others aver that democracy can only prosper if elites and masses believe it to be the most legitimate form of government.”**

An implicit social compact has ensured that citizens enjoy public goods and services without taxation and this depends on large government expenditures on public sector jobs and generous subsidies, especially for basic consumer goods. The breakdown of this social compact and the attendant erosion of the moral basis of the state-society nexus help to explain why the lack of jobs has been the main grievance of the region's youth since the private sectors have failed to grow or have been paralysed because of the large and bloated public sector

and weak business climate. However, rentier regimes have not only provided the fiscal base for large food and fuel subsidies, expansive public sector employment, and housing and cash transfers but have also guaranteed and created conditions for political stability and quiescent and depoliticised citizens. Thus, civil society development has been constrained since business, labour, and religious associations are all subject to government control and regulation, if not outright suppression. It is not surprising, therefore, that MENA countries but particularly oil producers under-perform on standard voice and accountability indicators and that as early as 2008, public opinion surveys showed strong popular support for more democratic governance as a response authoritarian sclerosis.

Other than certain prominent conflicts such as between Israel-Palestine and Iran-Iraq and until the onset of the 'Afro/Arab Spring' at least, most countries have escaped significant violence. Stability has thus co-existed with limited liberalisation, with resource rents helping to buttress prevailing state-society interactions. Paradoxically also, there has been enduring stability in the face of a near absence of economic dynamism which has severely constrained entrepreneurship and private sector development.

Since resource rents typically accrue to the central government, an executive which controls how rents are used and for what purpose will establish substantial political influence that can be used to further entrench personalist and autocratic one-party regimes. Significant oil wealth provides the types of fiscal revenue streams that obviate the need to impose taxes on the population. Rather oil wealth is redistributed through rents and subsidies. However, the importance of rentier regimes in the MENA region does not mean that democracy activists and revolutionaries for change in the oil rich countries of North Africa and the Persian Gulf will fail; but only to suggest that they will face inordinately more difficult transition challenges than their counterparts in Egypt and Tunisia.

The *second* problematic challenge concerns the types of regimes which

are found in the MENA region. As of 2011 and even in the aftermath of the 'Afro/Arab Spring', Freedom House has designated only four Arab countries (22 per cent) as partly free and the majority of 13 (72 per cent) as not free. By its controversial standards and criteria of political rights and civil liberties, only Israel is free (6 per cent). There are a few hybrid regimes such as Lebanon, Kuwait, and Iraq which have some institutions associated with democracy but yet fall way short of full political pluralism, popular rule, and accountability. Beyond these hybrid regimes which have constitutional systems that incorporate nominal democratic features, there are a variety of personalist and single-party plebiscitary regimes which are essentially authoritarian. Of these there are seven monarchies—namely, Bahrain, the United Arab Emirates (UAE), Saudi Arabia, Qatar, Morocco, Jordan, and Oman. And prior to the 'Arab Spring', there were six republics led by long-standing autocrats and strong-men as in Syria, Yemen, Algeria, Libya, Tunisia, and Egypt. The monarchies of Saudi Arabia, the UAE, Bahrain, and Qatar have been described as 'dynastic', meaning that they are ruled by a family rather than an individual; and power is distributed among family members. Except in Bahrain where the position of emir belongs to the first-born child through primogeniture, succession is decided by family consensus and a leader can be removed if he loses the allegiance of his family. In the non-dynastic Arab monarchies of Jordan, Oman, and Morocco, the monarch enjoys absolute power and selects his own successor. Across these monarchies, there are no mechanisms for holding rulers accountable to citizens. For example, in Saudi Arabia citizen participation is limited to elite consultation (shura) and elected local councils.

The republican governments are a complex amalgam of personalist, single-party, and military-dominated regimes. Most republics owe their lineages to coups or anti-colonial struggles. The initial post-colonial period was characterised by military intervention in politics but over time there was greater recourse

**“Tensions between secularists and Islamists will persist in the struggle to establish the ascendancy of their respective democratic credentials in society and this has become the crucible in shaping the normative bases of popular legitimacy and citizens’ demands.”**

to single-party dominated systems that varied greatly, particularly with regard to how the dynamics between civilian and military authority were defined. In Algeria and Syria, civilian governments are highly dependent on military support; in Egypt the military is embedded in the nerves of government; while in Tunisia and Libya, the armed forces were substantially weakened to prevent the possibilities of coups. What the republics have in common is their increasing use of the security infrastructure of repression, fear, and intimidation to deal with

**“Historically, the Soviet Union played a major role in buttressing fragile Arab regimes but increasingly the United States and Europe have provided repressive oil regimes with critical economic support, military assistance and international legitimacy.”**

political dissent, especially once the gloss of nationalism had started to fade. Institutions were then used as bases for disbursing patronage to loyal regime supporters as power became increasingly vested and concentrated in the hands of individual leaders as the supreme political and secular authorities.

The *third* issue area concerns the interface between religion, culture, and politics as an explanatory variable in the Arab world's lack of democracy. There is an established school of thought which holds that democracy can only flourish if societies adhere to certain cultural values. This culturalist school considers values such as individual responsibility, civic participation, inclusion and tolerance as prerequisites for democracy while others aver that democracy can only prosper if elites and masses believe it to be the most legitimate form of government. In trying to explain the democracy deficit in the Middle East, adherents of this culturalist persuasion argue that there are elements of Muslim and Arab traditions that are anathema to the values required for democracy and instead, these traditions facilitate authoritarian rule and practice.

Another culturalist strand argues that the region's democratic deficit can be explained by the unquestioning acceptance of authority in Islam. The patrimonial tribal origins of modern Arab societies are said to have fostered submission to authority and reduced any impulses toward democratisation. Beginning in the 9th century, Muslim views of political authority took a 'quietist' approach. There was a fear of civil war and foreign conquest and Muslim scholars argued that believers should support a leader provided he was a Muslim and could protect society against civil disorder (fitna). While proponents of this Islam-centric explanation do concede that the history of Islam is filled with groups who have justified their struggle against tyranny on religious grounds, they insist that the 'quietist' narrative has remained dominant since it continues to be preached by modern Muslim clerics (ulama). This, in part, accounts for the de-politicisation of citizens.

This culturalist disposition, however,

suffers under the weight of evidence in the contemporary setting. While Islam will always be a major force in Arab politics and while elections show strong public support for political Islam, recent opinion surveys suggest that Arabs strongly support democracy. Indeed, with the onset of the 'Afro/Arab Spring', Islamist parties have begun to make the case that they are the only credible democratic alternatives to authoritarian power-holders. Furthermore, the logic of the current Islamist momentum does not dictate that religious precepts will necessarily dominate the Arab discourse. Tensions between secularists and Islamists will persist in the struggle to establish the ascendancy of their respective democratic credentials in society and this has become the crucible in shaping the normative bases of popular legitimacy and citizens' demands. Constitutions and new frameworks for governance will have to carefully navigate this tension between liberal freedoms and the imperatives of a civic culture and conservative rules and the Islamisation of social life.

Obviously, different Arab countries display different levels and degrees of religiosity and this will certainly exercise a determining influence on the role which dominant Islam and indeed, other religions will play in Arab transitions and how these will be accommodated, especially among Christian and Jewish minorities. The extent to which the Sunni and Shia divide has now been instrumentalised in Arab politics, increasingly in violent expressions, will also have to be taken into account. However, it must be emphasised that a strong role for religion and religious life is not necessarily an impediment to the consolidation of a democratic order. In short, cultural and religious determinism must be rejected as a myth since no religion or belief system is more favourable than another when it comes to a peaceful transition to democracy; and nor does genuine democratisation imply the triumph of secularism.

And finally, there is the external dimension and the absolute importance of the Arab world's oil production in the global economy. Historically, the Soviet Union played a major role in

buttressing fragile Arab regimes but increasingly the United States and Europe have provided repressive oil regimes with critical economic support, military assistance and international legitimacy. Non-oil economies such as Egypt, Jordan and Morocco have also come to depend on this kind of foreign assistance. Thus, the protection of oil pipelines and shipping lanes that are a critical part of the production chain and global trade infrastructure is a strategic priority for the world's major economic powers, especially the United States. The external dimension is further complicated by America's strategic support of Israel.

**“In short, cultural and religious determinism must be rejected as a myth since no religion or belief system is more favourable than another when it comes to a peaceful transition to democracy; and nor does genuine democratisation imply the triumph of secularism.”**

In short, the post-war history of developed countries' engagement has shown no overt condoning or explicit condemnation of the repressive actions of the MENA region's autocrats. While there has been some nominal foreign assistance in support of democracy and governance to largely ineffective NGOs, overall the foreign policies of the main external players, particularly the United States, the European Union (EU), and Russia, have bolstered the stability of existing regimes.

This kind of support, regardless of regime excesses, has been referred to a 'strategic rents' because of the skewed distribution of aid to strategically important countries. The purpose of

foreign policy has turned more on building constructive alliances with such countries and their regimes so as to ensure that they stay in power, mostly by way of military assistance. This includes equipment acquisition, training, and access to sophisticated weaponry and surveillance technologies all of which have been instrumental in establishing large intelligence and security systems which are keys to sustaining regime loyalty and legitimacy. Given these dynamics and the history of external interaction with the region, initially the major external actors like the United States and the EU were totally surprised by the 'Afro/Arab Spring'. The conventional foreign policy wisdom of major powers has now been challenged on all fronts, especially with regard to the sustainability of 'strategic rents' as well as the efficacy of current security doctrines and support for Israel. The future role of foreign powers in the 'Afro/Arab Spring' is thus highly uncertain since there are distinct limits to external influences on the transition processes underway; the cases of Egypt, Syria, Libya and Tunisia are eloquent testimony to this. Indeed, the history of foreign engagement in the region shows no discernible impact on democratisation or genuine political reform.

In conclusion, and given what is occurring in Egypt, successful democratisation and revolutionary change can be expected to follow a very different trajectory in the Arab world because of its distinctive paternalistic and authoritarian regimes, the role of Islam in politics, the importance of oil in some of the region's economies, strategic re-assessments by major external actors, and an 'over-determined' security apparatus that is often at the centre of the state. As a parting message, the spirit of Karl Marx can be invoked for what he famously wrote in the *18th Brumaire of Louis Bonaparte* since it has profound relevance as well as great normative implications for the Middle East and North Africa. Thus Marx wrote: "Men make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly found, given and transmitted from the past". ■

## CHILD RIGHTS IN TRANSITIONAL JUSTICE DURING PEACE OPERATIONS AND POST-CONFLICT SCENARIOS



# The best interests of the child and truth and reconciliation commissions

Adults can act on behalf of children and in the best interests of children, but unless children themselves are consulted and engaged, the process will fall short and undermine the potential to pursue the most relevant and most durable solutions.

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By Claudio Lema Pose

The term “transitional justice” comprises the “full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include judicial and non-judicial mechanisms, with differing levels of international involvement, and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.”<sup>1</sup> The objective of transitional justice is to enable societies that have been torn apart by armed conflicts to recover and to place individuals (victims, witnesses and perpetrators) into a justice system in the context of a post-conflict agenda aiming to set a better future.

Transitional justice represents some of the most difficult aspects in modern peace operations. Justice systems, where they exist prior to conflict situations, emerge in a dysfunctional manner that endangers children’s rights in the post-conflict era. Given their very complex mission, peacekeeping operations now include the monitoring of the impact of reform efforts while promoting initiatives to strengthen the rule of law. In this context, for example, the UN Security Council Resolution on Haiti incorporates a lesson learned from many post-conflict experiences in the 1990s. As such, there is an intimate connection between monitoring and institution-building/reform.<sup>2</sup> Efforts to reform the justice system will fail unless the peacekeeping operation knows the strengths and weakness of the courts, police, prosecution and prison service, the influence wielded by the minister of justice over the appointment of judges, the root causes of corruption or the simple dysfunction of court administration. This knowledge results from intense, on-going observation and interaction by civilian peacekeepers whose job is to know and follow the key actors in the justice sector closely.

Another important question is what kind of transitional justice process may be most appropriate for children’s involvement in diverse cultural contexts. Over the last decade children’s participation in truth commissions has been promoted

in part because such commissions can provide a non-judicial and non-punitive approach to accountability. When truth commissions are in compliance with international human rights standards, they may create opportunities for children to express their views, building capacity for active citizenship and democratic processes. Truth commissions may also be linked to community reconciliation and educational activities. But, at the same time, truth commissions are political processes; if they are not objective and human-rights based, they can lead to

“The conflict has since become an important milestone informing the innovative steps taken to involve children in truth and reconciliation processes, both as victims of the conflict and as change agents in social reconstruction efforts.”

risks and manipulation of children, or to disillusionment.

Children have an important and unique role in processes that seek truth, justice and reconciliation. Adults can act on behalf of children and in the best interests of children, but unless children themselves are consulted and engaged, the process will fall short and undermine the potential to pursue the most relevant and most durable solutions. The objective of this paper is to address Article 3 of the Convention on the Rights of the Child (CRC), Best Interests of the Children, when a specific type of Transitional Justice (a truth and reconciliation commission) is applied taking as object of study the experience in Sierra Leone. We will review a piece of legislation that emerged in a peace operation and a

post-conflict scenario (the Sierra Leone Truth and Reconciliation Commission Act of the year 2000) *vis-à-vis* the participation of children and children’s best interests in transitional justice. The methodology of this paper involved various forms of data collection that were intended to assess the lessons learned from the process applied to support child participation in the TRC. The methods employed included a desk review of relevant literature; contact with UN staff/personnel and a visit to Sierra Leone.

### Best interests of the Child

The principle of the best interests of the child is one of the most cited and significant principles underpinning the Convention on the Rights of the Child. Article 3(1) states “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Although its meaning in different national, local and cultural contexts is open to discussion and debate, and applications of the “best interests” principle are wide ranging,<sup>3</sup> it has been accepted as a guiding principle by the TRC.

### Child Protection in Peace Operations and Child-Based Justice in Post-Conflict Situations

In the early days of peacekeeping, the United Nations Organisation stood between warring States and monitored peace agreements, including cease-fires. However, as conflicts changed, the UN mission has also evolved. New aspects such as peace-building, human rights monitoring, demobilisation and disarmament, and child protection were introduced into peacekeeping. As such, peace operations have become multidimensional and juvenile justice is part of them. Modern peace-making processes set out the basic framework for transition and the peacetime agenda for recovery, often specifying the material resources, technical assistance, institutional priorities, and international aid and funding commitments for the post-conflict period and beyond. Peace operations

even serve at times as constitutional fora where key stakeholders hammer out the political, social, legal, and economic foundations for a new national order. These processes may offer a unique opportunity to raise national standards – including the ratification of and the domestic legislative compatibility to human rights instruments – and to ensure monitoring and compliance. They also present a critical moment to ensure that the rights and special post-conflict needs of children – including children in conflict with the law – are addressed adequately.

Unfortunately, recent experiences demonstrate that without specific and detailed references to children in peacemaking processes, post-conflict programmes and resources are not allocated to meet children's special needs or to ensure the protection of their rights. For example, the Guatemala Comprehensive Agreement on Human Rights (the Agreement) reflected the lesson learned in neighbouring El Salvador that justice system reform is critical for the transition to rule of law.<sup>4</sup> The Agreement's strong and active focus on justice reform meant that parties were obliged to support reforms and promote human rights, and the United Nations Verification Mission in Guatemala (MINUGUA)<sup>5</sup> was empowered to provide relevant technical assistance and support. However, peacemakers ignored children's issues, and juvenile justice administration was never considered in the peacemaking process. One of the consequences was the formation of the *maras* or gangs phenomenon one decade later.<sup>6</sup> At the same time that international agencies, resources, funding, and experts focused on the segments of the justice system that were provided for in the Agreement, juvenile justice continued to function under the antiquated "situation irregular" that led directly to systematic and chronic violations of children's rights. As such, MINUGA did not succeed in curbing regular violence against children by police and private security forces, or in reversing the general inability of state institutions to protect the rights of children in conflict with the law.

Experience shows that post-conflict agenda has not included necessary

considerations for children's rights, often for the following reasons:<sup>7</sup>

- Peace negotiators are unaware of the nature and extent of the impact of conflict on children
- Lobbying efforts for children's issues are not effective
- Decision-makers lack easy access to information on child policies and programmes that should be adopted, or avoided, in light of other post-conflict experiences
- Stakeholders assume that general peace provisions would automatically and eventually benefit children and meet their needs.

In order to tackle these problems, child protection was specifically introduced through the UN Security Council Resolution 1261 in the year

“The participation of children in truth commissions should be in their best interests and should promote their physical and psychological recovery and social reintegration (particularly in terms of child soldiers).”

1999. Conflicts disproportionately affect children as many are subject to abduction, rape, military recruitment, killing, maiming, and other forms of exploitation, and are deprived of their basic rights to education, especially when schools are targeted. Peacekeeping personnel, through their Child Protection Advisers (CPA), are able to cover issues such as the release of child soldiers, juvenile justice and the reform of relevant legislation. In terms of juvenile justice, the CPAs on the ground may encounter the following situations: (a) debilitation of institutions and legal bases for the formal juvenile justice system, if one existed prior to the conflict situation; (b) effects on traditional and religious law systems which are not in line with children's

rights; (c) acts of vigilante justice against children; (d) ad-hoc criminal procedures against children in standard juvenile or adult courts, in military tribunals or within the structures of armed groups (e.g. warlords).

### West Side Boys and Bloods Diamonds: The Sierra Leone experience

This country endured a brutal conflict from 1991 to 2002 and one of its characteristics was its extreme savagery toward children. Atrocities committed included amputation and rape, as well as systematic child recruitment into fighting forces. The conflict has since become an important milestone informing the innovative steps taken to involve children in truth and reconciliation processes, both as victims of the conflict and as change agents in social reconstruction efforts. This conflict was brought to the general public through the 2006 film, *Blood Diamond*, with Leonardo DiCaprio, Jennifer Connelly and Djimon Hounsou, set during the Sierra Leone civil war.<sup>8</sup> Another dramatic (and also widely reported by the media) involvement of children in the Sierra Leonean conflict was the West Side Boys<sup>9</sup> case. This was an armed group in Sierra Leone, sometimes described as a splinter faction of the Armed Forces Revolutionary Council. It attracted world-wide attention by capturing members of a mostly West African peacekeeping force (including members of the Royal Irish Rangers) in the year 2000. Many members of the group were children abducted after their parents had been killed by the "recruiters". The West Side Boys were heavy users of homemade palm wine, locally grown marijuana, and heroin bought with conflict diamonds that were also used to purchase many of their weapons.

On 7 July 1999, the Government of Sierra Leone and the Revolutionary United Front (RUF) signed a peace agreement known as the Lomé Peace Accord (after Lomé, the capital of Togo, where the agreement was signed). This document included commitment to end hostilities, re-establish the Commission for the Consolidation of Peace, provided for demobilisation, disarmament and

aid in the reintegration of combatants into civil society. It also proposed granting amnesty to all rebel combatants and allowed for the RUF to become a political party. In order to achieve these goals, it called for a UN observer Mission in Sierra Leone (UNAMSIL) and to form a neutral peacekeeping force, and all mercenaries to leave the country, as well as a creation of a new Sierra Leone army.<sup>10</sup> The Lomé Peace Agreement also provided for the creation of a truth and reconciliation commission “to break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, and get a clear picture of the past in order to facilitate genuine healing and reconciliation”.<sup>11</sup> The following year, in 2000, through the passage of the Truth and Reconciliation Commission Act (the Act), the Parliament created the Truth and Reconciliation Commission for Sierra Leone specifying a process for selecting commissioners, including public nominations, a selection panel and a coordinating role for the United Nations.<sup>12</sup>

The Sierra Leone TRC was the first to call for a focus on children and to specify the need for procedures to protect the rights of children involved. A role for children in the Commission was anticipated because they had been targeted during the conflict and had suffered devastating impacts.<sup>13</sup> The efforts to involve children and to adopt child-friendly procedures for their participation and protection established a precedent for child participation in truth commissions, both acknowledging and involving children in the process for the first time.

Following a subsequent analysis of the Act’s provisions, we can see the Best Interest of the Child principle present in different sections of the overall mechanism of the TRC.

### **Equal treatment of all children before the TRC**

“The key task of the TRC in relation to children is to create an impartial and official historical record of what happened to children during the armed conflict in Sierra Leone. In relation to reconciliation, the TRC should build upon existing mechanisms for promoting the reintegration and

reconciliation of children, particularly the work of child protection agencies and traditional leaders and structures. The TRC is thus expected to contribute to the on-going re-integration of children back into their communities or host communities.”<sup>14</sup>

This was implemented through special procedures for the involvement of children in the TRC that should apply to all children without differentiation as to whether or not they were considered primarily as witnesses, victims or perpetrators. Child perpetrators must be seen and treated primarily as victims. Indeed, the Sierra Leone TRC, operating at the same time as the Special Court, included among its guiding principles a decision to treat all children equally as victims and witness of the war, including children

“Whilst children of both sexes have been subject to violations, many violations have been carried out specifically against the girl child, such as rape and forced marriages.”

associated with fighting forces. Instead the adults who recruited and armed children would be held responsible. This position was reaffirmed in the final report of the TRC, which discussed children’s role in the wartime violations, noting that “Thousands of children and youth were forced to take drugs as a means to control and teach them to kill, maim and rape without (conscience); making them virtual killing machines.” However, with regard to children’s criminal responsibility for those acts, the TRC recommended that “all children be excluded from any form of criminal prosecution” and further noted that amnesty for children would not apply, as it would imply criminal responsibility for international crimes. While there is emerging consensus that children should not be prosecuted for grave violations by international courts, accountability

- including judicial prosecution - at national levels is less clear.

### **Special attention to the experiences of girls**

Section 6.2(b) of the Act provides that “Without prejudice to the generality of subsection(1), it shall be the function of the Commission to work to help restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to related their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict”.

Whilst children of both sexes have been subject to violations, many violations have been carried out specifically against the girl child, such as rape and forced marriages. It was then recommended that the TRC give special attention to the experiences of girls and specifically address gender-based violence against girls during the conflict. This includes the keeping of disaggregated data on gender based violence when recording violations, in addition to disaggregated data according to the child’s age, appointing staff with expertise on sexual violence, and working with local agencies to ensure victims of sexual violence are not rejected by their communities.

### **Relationship between the TRC and the Special Court for Sierra Leone**

According to the Key Principles for Children and Transitional Justice: “Accountability measures for alleged child perpetrators should be in the best interests of the child and should be conducted in a manner that takes into account their age at the time of the alleged commission of the crime, promotes their sense of dignity and worth, and supports their reintegration and potential to assume a constructive role in society. In determining which process of accountability is in the best interest of the child, alternatives to judicial proceedings should be considered wherever appropriate. Concerning the jurisdiction of the

Special Court for Sierra Leone over persons who were between the age of 15 and 18 at the time of the alleged commission of the crime, the UN Security Council expressed the view that it is “extremely unlikely” that juvenile offenders will come before the Special Court and that other institutions, such as the TRC, are better suited to address cases involving juveniles. The expert group emphasised that children should not be prosecuted by the Special Court. In order to preserve the confidentiality of the involvement of children before the TRC, to encourage them to participate in its proceedings and to preserve the non-judicial character of the TRC, it is recommended that the TRC makes use of its powers not to disclose information and does not share information concerning children with the Special Court. The work of the TRC and its report can make an important contribution to the work of the Special Court for Sierra Leone, in particular by establishing accountability for the crimes committed against children.

In considering the criminal responsibility of children below the age of eighteen, the civil conflicts in Sierra Leone and Liberia are particularly relevant.<sup>15</sup> In Sierra Leone nearly 7,000 (seven thousand) children were formally demobilised from fighting forces. In this regard, the Special Court of Sierra Leone adopted a policy not to pursue prosecution of anyone who was under age eighteen at the time the offense was committed. The policy was based on a decision by the chief prosecutor that “no child could bear the greatest responsibility for the crimes that have taken place”.<sup>16</sup>

The findings of the TRC report made a significant contribution to the fight against impunity for crimes committed against children, as requested in UN Security Council Resolution 1314 (2000) and recommended by the UN Secretary General.

### Conclusions

As seen throughout this article, peace operations present numerous opportunities for ensuring an effective transition from the conflict to the post-conflict juvenile justice as part of the peace agenda. However, the

global trend is not unanimous. An examination of the decisions taken by the TRC in Sierra Leone and the TRC in South Africa post-Apartheid regarding child testimony and statement-taking demonstrates how the assessment of the best interest principle can lead to different outcomes. In South Africa, “a debate arose during preparation of the special hearings on children and youth as to whether or not children under the age of eighteen should appear and testify.”<sup>17</sup> At the time there was no precedent for children’s participation in a process that was considered both risky and politicised. In particular, the possibility of re-traumatising children was an area of concern. A decision was made to exclude children from statement-taking

“At the time there was no precedent for children’s participation in a process that was considered both risky and politicised. In particular, the possibility of re-traumatising children was an area of concern. A decision was made to exclude children from statement-taking and from the hearings.”

and from the hearings. The argument was that exposure to the public and political glare of the hearings would not be in children’s best interests. This decision was made in 1996. It should be noted that South Africa became a party of the CRC in 1995. Years later, in 2001, the Sierra Leone TRC used the same argument (the best interests of the child) to arrive at a complete different conclusion. The technical meeting of the Sierra Leone TRC, in Freetown in June 2001, determined that because children are among the primary victims of the civil war in Sierra Leone, their

involvement in the TRC is essential. We believe we have presented in this paper how, if correct measures are taken, the involvement of children (who are the future of the country) should be taken into consideration in any transitional justice system.

The Sierra Leone TRC was the first truth commission to involve children in statement-taking and in close and thematic hearings, as well as in the preparation of a child-friendly version of the Commission report. The role of children in the Sierra Leone TRC was also ground-breaking in setting precedent and developing policies and procedures to protect the rights of children in truth commissions processes. This has had a significant impact on the emerging understanding of children’s evolving capacities to contribute to the legal and social aspects of the TRC activities.

The investigation and documentation of civil, political, economic, social and cultural rights violations by truth commissions should include a specific focus on crimes and violations against children, and should take into consideration the full spectrum of rights guaranteed under the CRC and other international norms and treaties.

When children are accused of committing crimes under international law, truth commissions should recognise that children are primarily victims of armed conflict or political violence.

Truth commissions should take into account children’s agency and their role as active citizens contributing to justice and reconciliation in their communities. The involvement of children in truth commissions should thus include participation in diverse activities, such as outreach, statement-taking, thematic and closed hearings, creative expressions, community-based reconciliation efforts, contribution to the formulation of recommendations, and the preparation of a child-friendly report.

Statements and testimony to truth commissions should capture children’s distinct experiences and their diverse role as victims and witnesses and, when appropriate, as participants in hostilities and political violence.

Truth commissions should establish policies and procedures to ensure the safe and meaningful participation and protection of children.

Truth commissions should include CPA and experts on child rights among commissioners and staff, and should ensure that all commissioners and staff receive appropriate training in child rights and child protection procedures.

The participation of children in truth commissions should be in their best interests and should promote their physical and psychological recovery and social reintegration (particularly in terms of child soldiers). ■

#### References:

- <sup>1</sup> Report of the United Nations Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, United Nations, New York, 23 August 2004 (S/2004/616).
- <sup>2</sup> UN Security Council Resolution 1542 (2004) establishing the UN Stabilization Mission in Haiti specifies that the Mission will monitor and report on the human rights situation, re-establish the prison system and investigate violations of human rights and humanitarian law, help rebuild, reform and restructure Haitian National Police, including vetting and certifying that its personnel have not committed grave human rights violations, develop a strategy for reform and institutional strengthening of the judiciary and assist with the restoration and maintenance of the rule of law, public safety and public order.
- <sup>3</sup> Alston, Philip 1994 *The Best Interests Principle: Towards a Reconciliation of Cultural and Human Rights, in The Best Interests of the Child: Reconciling Culture and Human Rights*, Oxford University Press.
- <sup>4</sup> Cohn, Ilene 1999 *The Protection of Children in Peacemaking and Peacekeeping Processes*, 12 Harvard Rights Journal 129
- <sup>5</sup> Following the signing of the Agreement between the government and the Guatemalan National Revolutionary Unity (URNG) on 29 December 1996, the UN Security Council authorised, by means of UN Security Council Resolution 1094, the deployment of a peacekeeping force to support the MINUGUA personnel already in place and to verify the ceasefire, the demobilisation of the URNG, and the surrender of their materials. Under the Department of Peacekeeping Operations, the UN peacekeepers handed over the weapons and ammunition to officials from the Guatemala Interior Ministry, thereby completing the task of the military verification group. The final members of MINUGUA human rights verification team left Guatemala in November 2004. Following its departure, the UN and the Guatemalan government agreed to establish a field office of the High Commissioner for Human Rights in Guatemala City for a period of three years at the government's request.
- <sup>6</sup> Lema Pose, Claudio, "The Real Face of La Vida Loca, The Maras in El Salvador," *The Thinker*, January, 2013, volume 47
- <sup>7</sup> Cohn, Ilene, *ibid*(8) The film's ending, in which a conference is held concerning blood diamonds, is in reference to an actual meeting that took place in Kimberley, South Africa, in the year 2000 and led to the Kimberley Process Certification Scheme, which seeks to certify the origin of rough diamonds in order to curb its illicit trade (conflict diamonds).
- <sup>9</sup> The "West Side Boys" name refers to the rapper from the United States, Tupac Shakur, whose deadly dispute with Biggie Smalls (aka Notorious B.I.G.) was constructed in the media as United States West Coast vs. United States East Coast rivalry. Tupac Shakur was named after Tupac Amaru, the leader of an indigenous uprising in Peru against the Spanish during the colony days, and the namesake of a more recent rebel group in Peru. So in an odd series of connections between pop culture, civil wars and child soldiers, a rebel group in Sierra Leone was named for a US musician, whose namesake in turn was a rebel group in Peru (Pagne Fortna, Virginia 2003 *Does Peacekeeping Work?* Princeton University Press).
- <sup>10</sup> The United Nations Mission in Sierra Leone (UNAMSIL) was (technically) a peace enforcement mission, authorised under Chapter VII of the UN Charter, but it did not deploy a robust force posture and therefore did not present a credible deterrence on the ground. In April and May 2000, as UNAMSIL attempted to deploy to diamond-mining areas (a key economic activity which was fuelling the conflict as portrayed by the movie *Blood Diamond*), the Revolutionary United Front (RUF) attacked UNAMSIL positions in Magburaka and Makeni, taking over 500 of them as hostages. The RUF then used the captured UN equipment to advance to Freetown. This action triggered a British military intervention which led to Operation Barras.
- <sup>11</sup> It should be noted that the Lomé Agreement also granted amnesty to the rebel combatants and this was objected by the UN who would not recognize amnesty for acts of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law.
- <sup>12</sup> Peace Agreement between Government of Sierra Leone and the Revolutionary United Front of Sierra Leone of 7 July 1999, Lomé, Togo.
- <sup>13</sup> The Truth and Reconciliation Commission Act 2000, Supplement to the Sierra Leone Gazette CXXXI (9) 10th February 2000. Section 6(2b) provides that special attention should be given to children; Section 7(4) calls for the implementation of special procedures to address the needs of children and individuals who have suffered sexual abuse so as to facilitate their participation.
- <sup>14</sup> Children and the Truth and Reconciliation for Sierra Leone, Recommendations for policies, procedures for addressing and involving children in the Truth and Reconciliation Commission (UNICEF/UNAMSIL/ National Forum for Human Rights).
- <sup>15</sup> Republic of Liberia, Truth and Reconciliation Commission, Final Report, Volume Two.
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- <sup>17</sup> Piers, Pigou, Children and the South African Truth and Reconciliation Human Rights Programme at Harvard Law School.

## ANNEX A: Checklist for Child Protection Advisors in Transitional Justice

### 1. Places of Detention: Where are children deprived of their liberty?

Police station lock-ups or arrest cells  
Pre-trial detention facilities (for children or adults)

Post-sentencing prison facilities (for children or adults)

Child welfare and protection institutions  
Barracks and custodial settings under the authority of military, militia, paramilitary, warlords, mercenary groups, etc.

Other public and private closed custodial settings or institutions, including the following:

- Rehabilitation centres
- Borstal institutions
- Approved schools
- Education and re-education centres
- Reformatories
- Remand homes
- Training centres
- Observation centres
- Diagnostic and placement centres

- Correctional schools
- Medical, psychological, and psychiatric institutions

### 2. Access: Who has immediate access to inspect each place of detention?

UNICEF  
International Committee of the Red Cross

Other international NGOs

National NGOs

Other UN Agencies

National counterparts and/or officials

### 3. Children: Which groups of children are detained in each facility?

What is the minimum age of criminal responsibility?

Children alleged as, accused of, or recognised as having infringed the penal law, including the following groups:

- Children held by police or other authorities without formal charges
- Children held awaiting trial
- Sentenced children

- Child soldiers
- Children under the minimum age of criminal responsibility

Children detained on the grounds of welfare and/or protection, including the following groups:

- Children with disabilities
- Child prostitutes and child victims

of sexual abuse and/or exploitation  
Children detained since before the onset of the conflict, since the conflict period itself, or for an otherwise prolonged period, due to the conflict and post-conflict situation

Internally displaced children

Unaccompanied children

Child and adolescent asylum seekers, including those fleeing from armed groups

Refugee and/or immigrant children

Children detained with their parents

### 4. Conditions: What are the conditions in each place of detention?

Practices of violence, torture, or other ill-treatment, including sexual violence, abuse, exploitation, and

psychological abuse, including by the following:

- by centre personnel or authorities
- by adult detainees/prisoners
- by other/older children in the same facility

Separation, including the following:

- Complete separation of children from adults (both boys from men and girls from women), except

where it is demonstrated that non-separation is in an individual child's best interests

- Separation of children alleged as or accused of having infringed penal law, from those legally recognised as having infringed penal law, from those detained for non-penal motivations
- Separation of boys from girls

- Separation by ages of children
- Overcrowding
- General standards for hygiene, nutrition, facility safety, adequacy of living space, etc.
- Access to medical care
- Contact with families, accessibility of families to facilities
- Educational and recreational opportunities

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**ANNEX B: Operational Table for Transitional Justice in Peace Operations**

Due to the environment in which they operate, most peacekeeping operations will focus overwhelmingly on the criminal justice sector of the judicial system. In post-conflict situations, basic law and order is absent and there is a compelling need to provide security to traumatised and war-torn populations. Thus the role and responsibility of the criminal justice system will be central in any post-conflict scenario. The areas of criminal law most relevant to a peacekeeping operations' mandate will be arrest and detention, treatment of prisoners and detainees, access to lawyers to their clients, access to medical professionals and family members to the detainees, fair trial standards, sentencing practices, rights of the victims to participate in the proceedings, reparations programmes and any laws on amnesties or pardons. The question then would be how to implement the normative instruments in post-conflict scenarios. The table below provides a short conceptual framework for the design of juvenile justice reform programmes which are focused on criminal justice and a general approach for evaluating the impact on the ground.

Objective	Desired results and measurable indicators	Impact
Ensuring that rights of children are protected throughout the criminal justice process, including the guarantees of a fair trial.	<p><b>Desired results:</b></p> <ul style="list-style-type: none"> <li>Prohibiting the retroactive criminalisation of a conduct.</li> </ul> <p><b>Measurable indicators:</b></p> <ul style="list-style-type: none"> <li>The law is changed.</li> <li>Appropriate amendments to the law come into force and are effectively implemented.</li> </ul>	<p>The law is applied consistently.</p> <p>Public attitudes/opinions about the juvenile justice system are changed.</p>
Making sure that the child's right are respected in any judicial proceedings.	<p><b>Desired results:</b></p> <ul style="list-style-type: none"> <li>Children are heard effectively in all judicial proceedings that concern them (and also in non-judicial decision-making processes that affect them, their safety, their freedom or their rights).</li> </ul> <p><b>Measurable indicators:</b></p> <ul style="list-style-type: none"> <li>Percentage of children in conflict with the law who are satisfied that they were heard in proceedings concerning them. Percentage of children in detention who are aware of the exact nature of the charges against them.</li> </ul>	Transformation of the criminal justice process as it affects children.
Ensuring that accused children are never compelled to give testimony or to confess or acknowledge guilt (through law reform, guidelines for police and prosecutors, training of officials, right to appeal, presence of legal counsel)	<p><b>Desired results:</b></p> <ul style="list-style-type: none"> <li>Children are not compelled to admit guilt or incriminate themselves.</li> <li>Children are represented by legal counsel or advocate.</li> <li>Improving funding for public legal defenders and legal aid.</li> </ul> <p><b>Measurable indicators:</b></p> <ul style="list-style-type: none"> <li>Number of appeals.</li> <li>Incidents of children being compelled or threatened. Reports to public complaints commission, office of ombudsman or human rights organisations. Number of trials in which a judge has used information obtained under torture or other ill treatment.</li> </ul>	Children's rights may receive greater protection as a result of the legal assistance that children receive.
Ensuring that children in conflict with the law are offered adequate legal and other appropriate assistance (e.g. interpretation of proceedings).	<p><b>Desired results:</b></p> <ul style="list-style-type: none"> <li>Children receive legal assistance as required without any form of discrimination.</li> </ul> <p><b>Measurable indicators:</b></p> <ul style="list-style-type: none"> <li>Number of lawyers available to represent and defend children in conflict with the law.</li> <li>Number of children who are (and not) represented in court.</li> <li>Number of children who have access to legal counsel during criminal proceedings (categorised by type of offence, age, gender and geographical location).</li> </ul>	Children's legal representation is improved.
Ensuring that appropriate measures are taken respect the privacy of the child during all stages of the proceeding.	<p><b>Desired results:</b></p> <ul style="list-style-type: none"> <li>The identity of juvenile offenders is protected.</li> <li>The private character of juvenile justice proceedings is respected.</li> <li>Law enforcement and justice officials understand how to protect the privacy of children in conflict with the law.</li> </ul> <p><b>Measurable indicators:</b></p> <p>Number of cases reported in the media where the identity of the child in conflict with the law is revealed.</p>	Change in public perception of the justice system and its credibility.

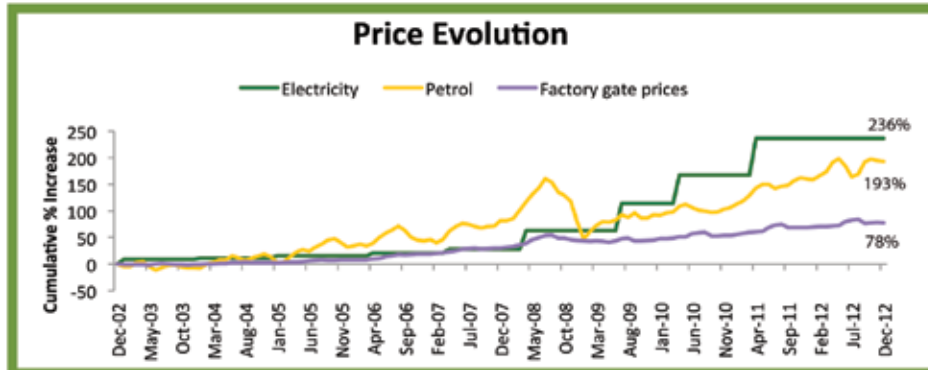
# Competitiveness & Growth

**South Africa requires a pragmatic social compact if we are to reverse the trends of increasing costs and declining competitiveness.**

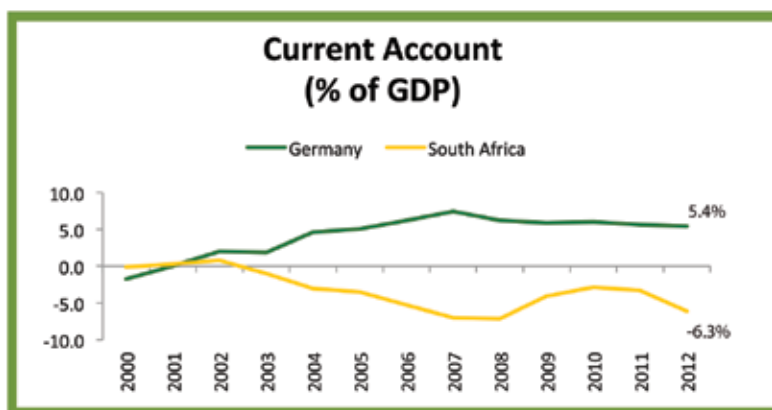
It has become increasingly expensive to live and do business in South Africa during recent times. Since the end of 2002 Eskom tariffs have risen by a striking 236%, and following the National Energy Regulator's decision will continue to rise by 8% per year for the next five years. According to Statistics SA, electricity, petrol and other fuels make up just more than one tenth of the average South African consumer's spending "basket". Clearly then, the rising cost of these items are affecting a vast number of our country's citizens.

Perhaps more importantly for our economy, rising costs are placing a particularly significant amount of pressure on South Africa's industries. Unit labour costs – the costs of labour associated with one unit of output – have risen by about 120% over the preceding 10 years. Contrastingly, the factory gate Producer Price Index (PPI) – an approximate measure of what manufacturers are receiving for final goods – has increased by only 78% over the same period. The inevitable result is that our industrial companies are (on aggregate) becoming less competitive, are facing lower profit margins, and consequently are less and less able to employ new workers.

Considering South Africa's chronic and abnormally high degree of unemployment relative to our global peers, it



is time to reverse the pattern of declining competitiveness and rising costs. On several fronts this will be an extremely difficult task. However, history has shown us that it is possible. A mere decade ago, Germany faced a double-digit and rapidly increasing unemployment rate, with great pressure building on the government budget through an overly generous welfare system. In response, the country was forced to take significant cut backs in social spending and a liberalisation of the job market – a measure which the labour force tolerated in exchange for greater job opportunities. Today, Germany has one of the most robust developed economies in the world. Since the extensive structural reforms of the early 2000s, wage increases and therefore unit labour costs have remained well controlled (Germany's unit labour costs have increased at less than a quarter of the rate of those in South Africa, in dollar terms). In 2012, Germany's exports exceeded its imports by \$240 billion, a clear indication of its superior competitive position. The German economy therefore continues to be a shining light of growth within the recessionary Euro area.



By contrast, South Africa's international trade position remains under significant pressure. The current account deficit for 2012 has been estimated at -6.3% of GDP, and is expected to stay close to this level in 2013. Evidently, the South African economy is in need of a shake-up.

Active citizenry will be required for meaningful progress to be made in this regard.

Governments the world over are less able to stimulate economic activity than five years ago, and South Africa is no exception. Going forward, the private sector will need to step in where governments leave a spending growth void. This requires recognition by private investors that greater investment in physical and human capital is necessary for economic growth sustainability, and that long term sustainability of this sort is ultimately in the interests of everyone. While the electricity blackouts of 2008 should be avoided as far as possible, South Africans need to strike an appropriate balance between maintaining a reliable power supply and controlling consumer and industry expenses. In a similar way, government will have to carefully consider the effect of higher fuel levies and energy costs on South Africa's macroeconomic performance, while at the same time addressing the dangerous trend of rising public debt levels. The relationship between management and labour is another area in which our nation clearly needs to improve. South African employers must accept their unique position in the world and consequently be more sensitive to rising living expenses and high levels of

dependence, especially amongst low-income workers. However, South African employees need to fully internalize the possible long term effects of negotiation victories on the very existence of their employers. Germany's success can become a lesson in cooperation and discipline to us all.

Every social, political, business and administrative group has an obligation to communicate clearly and honestly, in order to engender the trust necessary for real and sustainable progress to be made in these matters. We require, as a country, a pragmatic social compact from which each economic participant can draw guidance. While the National Development Plan appears to have received the necessary buy-in for such a compact to begin developing, it is only a start. It will take a full change of mindset by a great number of South Africans, from every walk of life, for us to convincingly take the needed steps to reduce costs and improve our global competitiveness. In this way, it will become possible for South Africa to leverage our abundant mineral resources into a material and sustainable positive growth pattern. ■



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## History, we know by now, arrives as tragedy and then repeats itself as farce



By Suresh Roberts

This most recent cycle of this recurring wisdom came to us with the recent pseudo-looting of the Ahmed Baba library in Timbuktu, which was said to have been razed by barbarian hordes last month: “Islamist rebels torch SA-funded Timbuktu Manuscript Library” reported the *Times* locally, recycling the interpretation the international press had imposed upon events on the ground in Timbuktu.

In fact these reports were false. The “Ahmad Babu Institute” (as one global news-source mis-named and re-named it) was intact and had suffered at most limited damage - and that at the hands of “Islamists” who were, in the familiar pattern, synthetic creatures of Western client relationships, belatedly gone rogue.

Which brings to mind the true tragedy that precedes the recent farce: the events in 2003 in Baghdad, associated with the overthrow by Western forces of another client-turned rogue, Saddam Hussein. During the first days of the supposed liberation of the country by the West, which

occurred almost precisely ten years ago, it is worth recalling the genuine looting of the National Museum of Antiquities in Baghdad and the nearby National Library of Iraq.

Patrick Martin covered this well at the time (16 April, 2003) in a piece still to be found on the World Socialist Website. ([www.wsws.org/en/articles/2003/04/muse-a16.html](http://www.wsws.org/en/articles/2003/04/muse-a16.html))

Martin emphasises that the looting of the Baghdad Museum and Library were not merely collateral damage of the unlawful invasion, but were actually foreseen and specifically warned against by antiquities professionals who loudly advocated the protection of these treasures from the threats of bombing and post-invasion disorder.

The invaders, however, specifically neglected to heed these warnings, a form of inaction, argues Martin, that “constitutes a gross violation of the 1954 Hague Convention on the protection of artistic treasures in wartime, adopted in response to the Nazi looting of occupied Europe during World War II.” He continued: “At least 80 percent

of the 170,000 separate items stored at the National Museum of Antiquities in Baghdad were stolen or destroyed during the looting rampage that followed the US military occupation of Baghdad. The museum was the greatest single storehouse of materials from the civilisations of ancient Mesopotamia, including Sumeria, Akkadia, Babylonia, Assyria and Chaldea. It also held artifacts from Persia, Ancient Greece, the Roman Empire and various Arab dynasties. The museum held the tablets with Hammurabi’s Code, perhaps the world’s first system of laws, and cuneiform texts that are the oldest known examples of writing - epic poems, mathematical treatises, historical accounts. An entire library of clay tablets had not yet been deciphered or researched, in part because of the US-backed sanctions that restricted travel to Iraq.”

The parallels with the research agenda that is still to unfold in Timbuktu are chilling. Martin again: “The 5,000-year-old alabaster Uruk Vase is the earliest known depiction of a religious ritual. The stone face of a woman, carved 5,500 years ago, is one of the oldest surviving examples of representational sculpture. The world’s oldest copper casting, the bust of an Akkadian king, dates from 2300 BC. Another significant loss came from the burning of the nearby National Library, containing tens of thousands of old manuscripts and books, and newspapers from the Ottoman Empire to the present. The library’s reading rooms and stacks were reduced to smoking ruins.”

There are several direct ways in which the Baghdad tragedy and the Timbuktu farce speak directly to the mission of *The Thinker* as it crosses another milestone anniversary.

For those who tend to dismiss the quest for ancient pre-history as a luxury irrelevant to the pressing contemporary issues of human development and global discourse, there is the stark irony of convergence between bogus present-tense reporting on Timbuktu and the obvious symbolic resonance of these antiquities (or the imagined treatment of them) as necessary evidence of native barbarism.

Saddam Hussein in 1991 was

said to have whipped babies from incubators in Kuwaiti hospitals (a figment, it turned out, of a Western ad agency) and could be portrayed as killing off the metaphorical Arab future, and so justifying Western “humanitarian” intervention. So too the Malian ruffians (and that is at best what they were) needed to be shown in violence against their own edified prior selves, so as to clear the way for violence against them in the here and now. And for the establishment of a legitimate presence for French pseudo-civilising boots on the ground.

At a trivial level, the looting of antiquities has always been an integral part of their privatisation and hence commodified circulation. Martin incisively points out that the American Council for Cultural Policy (ACCP), “a lobbying group for wealthy collectors and art dealers” actually met with the Pentagon before the onset of the war. And that the group’s treasurer, William Pearlstein, had previously characterised Iraq’s policy on antiquities as “retentionist.”

It is almost as though fiction turned to fact: Martin seems to have been anticipated by the late Bruce Chatwin, better known as a travel writer than a novelist, who has a character say in his novel, *UTZ* (1988), that “the collector’s enemy is the museum curator. Ideally, museums should be looted every fifty years, and their collections returned to circulation.” Chatwin’s character adds: “Politically, Utz was neutral... He detested violence, yet welcomed the cataclysms that flung fresh works of art onto the market. ‘Wars, pogroms, and revolutions’, he used to say, ‘offer excellent opportunities for the collector.’”

But Martin also made the more fundamental point, which is suddenly relevant again in Mali: “It serves the interests of American imperialism to humiliate Iraq and condition its population to submit to the United States and the stooge regime to be established in Baghdad. Attacking the cultural resources that connect the Iraqi people to 7,000 years of history is part of the process of systematically destroying their national identity.”

Somewhere within the spectrum between tragedy and farce stands

contemporary South Africa. The fragmentation of national identities; the violent humiliation of peoples we had thought to be part of a tragic history, even if Marikana and recent episodes of police violence (as against taxi driver Mido Macia) now join the xenophobic pogroms of recent years as material irruptions of naked violence in our present. There is still room to suggest that, unlike the pre-1994 violence, these instances are departures from a national normative stance.

The more intractable and even invisible issue is the silence violence of our own self forgetting. To the extent that the national conversation loses its moorings; to the extent that we become consumed with the defence of mere individual antics and lose grasp of the very idea of a collective agenda within public discourse - to that extent we surrender, without any visible violence at all, something that used to be the point of it all.

It is quite clear that we have reached that point - the soft violence of fatuous - in place of what used to be (or to try, at least, to be) a substantive national conversation.

As part of a study group on certain policy issues in the mid-Nineties, I recall visiting certain academics in Evanston, Illinois, the site of Northwestern University. And at one dinner party in those suburbs, a white left academic spoke sadly of the conditions of knowledge in the racially integrated public school attended by his own children. His own children, reared in a literate white household were the ones (and others like them) in their primary school class best able to recite and analyse the legacy and relevance of Martin Luther King. The students from African American households had, in certain instances, never even heard the name of the man.

This is an extreme example of the disintegration of consciousness among the “born frees” in South Africa - a term that in itself performs the very act of forgetting to which I wish to object. To be in or around or shortly after 1994 was hardly, for a black South African, to be born “free.” But in the absence of democratic ownership of the content of the term “free”, hostile definitions of freedom predictably win the day.

We need, as *The Thinker* does, to seek authorship of our own freedom. And Timbuktu is a powerful name with which to conjure that.

As late as 1983 South African Nobel Laureate Nadine Gordimer could be found reciting the traditional history in which Africa was supposedly bereft of writing until the missionaries brought it with them.

But by 1999, when a conference on “The International Media and the Image of Africa” was held in Bamako, we are given a glimpse of her continuing self-education which may stand as a metaphor for what the country still needs now. Gordimer wrote, of what was her first visit ever to Timbuktu:

*“I have had an extraordinary, interesting few days in West Africa—Mali, and not only the capital, Bamako, but also that place we think of as the end of the earth, Timbuktu. In fact it was closer to some of the beginnings of the intellectual world as we know it: from the 12th century there was a university there and it was a famous centre of learning for Afro-Arab culture. Many waves of conquest, Moorish and European, have overwhelmed it, but like the wonderful manuscripts in its tiny museum, the desert isolation has preserved much of its impressive architecture, mosques and minarets in a pure futuristic style, built of mud and wood. And there magnificent Niger River flows through the desert, there.”* (Quoted in *No Cold Kitchen: A Biography of Nadine Gordimer*, 232-33)

Gordimer’s engagement with Timbuktu is not without its continuing debateable points. Who precisely is the imagined “we” for whom Timbuktu is the end of the earth? “Overwhelmed” is perhaps an incautious characterisation of invaders’ impact. What exactly is meant by a “futuristic” style? But the larger point is not her (perhaps inevitable) fallibility but rather the exemplary engagement with matters and venues of substance - and in a manner that if residually complacent, is also visibly self-correcting.

In its own way, with its own fallibilities and even fragility, *The Thinker* enters a similar effort, with equal persistence and perhaps greater necessity. ■

# American Mining Engineers in South Africa around the turn of the 20th Century

American mining engineers emerged in the late 1880s as the most sought-after superintendents or mine managers, consulting engineers, and evaluators of mining properties and investments.

By Morley Nkosi

The history of American mining, particularly in the shallow and deep lodes of the western United States, was in very many ways similar to that of South African mining, especially in Namaqualand's copper mines, Griqualand West's diamond mines, and the Transvaal gold mines. Some of the illuminating American parallels were:

- the warring with indigenous Indian tribes, defeating them by force of superior arms and taking their lands and livestock;
- forming diggers' committees which administered diggers' justice and barred Indians and Mexicans, from whom the land had been taken, from staking any claims;
- the working of shallow claims with little capital and labour, rudimentary equipment and no skills until the beginning of deep-lode mining and formation of large mining companies, to which flocked many immigrant labourers, greater amounts of domestic and foreign capital (especially from Europe), large machinery and the indispensable skilled Cornish mining artisans; and
- the encouragement of Chinese

labourers. These were initially welcomed as buyers of worked-out shallow claims and later tolerated on large deep-lode mines, only to be driven off, violently in some cases, by white labour and some state legislatures as potential competition for white American labour.<sup>1</sup>

Some of the major differences between the histories of western mining in the United States and mining in the Cape Colony and Transvaal were the times when the discoveries occurred and development of the mines took place, and the scale of operations. Placer mining started in California in 1848, two years before opencast copper mining began in Namaqualand. When deep-level mining began on the Comstock lode in Nevada around 1850, copper mining in Namaqualand had just started, diamonds had hardly been discovered, and Griqualand West did not exist. When the silver-lead lodes of Coeur d'Alene in Idaho were discovered in 1885 and the Bunker Hill and Sullivan Mining and Concentrating Company was formed,<sup>2</sup> the Struben brothers in the Transvaal had discovered the 'Confidence Reef' but knew nothing about the main reef

series. American mining was advanced when South African mining was beginning, and British mining capital recognised and appreciated this fact.<sup>3</sup>

## Institutionalisation of Mining Engineering

The rapid advance in mining in the United States was helped by the institutionalisation of the teaching of engineering in some colleges and universities, such as the Lawrence Scientific School at Harvard, Massachusetts Institute of Technology, Columbia College, and the University of California whose engineering curricula dated back to the 1860s.<sup>4</sup> By 1876, the number of educational institutions in the United States teaching mining engineering had increased to fourteen, although nothing was published about the curricula of mining and metallurgy in these and other schools until 1886.<sup>5</sup> In the meantime, a few of the earlier graduates of these programmes had continued their studies abroad at several prominent European mining academies in Germany and France, particularly at the *Königliche Sächsische Bergakademie* (the Royal Saxony Mining Academy). This institution was

respected for its programme which emphasised both theory and practice, the former consisting of courses such as mining engineering, metallurgical engineering, mine surveying and metallurgy, and the latter covering actual mining and smelting during the spring and summer.<sup>6</sup> Combining the experience of respected foreign schools with domestic circumstances and needs, American mining schools developed to a point where US President Herbert Clark Hoover (1929–1933) wrote in his *Memoirs*:

*It was the American universities that took engineering away from the rule-of-thumb surveyors, mechanics, and Cornish foremen and lifted it into the realm of applications of science, wider learning in the humanities with higher ethics of a profession ranking with law, medicine, and the clergy.*<sup>7</sup>

Another factor that facilitated the development of mining was the founding of the American Institute of Mining Engineers (AIME) around 1868, which was a powerful medium for disseminating information on mining and metallurgy.

As a result of learning the traditional Cornish artisanal mining skills, increasing the introduction of technical education in colleges, and working in various mines both in the United States and abroad, American mining engineers emerged in the late 1880s as the most sought-after superintendents or mine managers, consulting engineers, and evaluators of mining properties and investments. British mining capital wanted them and was willing to pay handsomely<sup>8</sup> for their services in the United States,<sup>9</sup> South America, Africa, Asia and Australasia. In 1886, Richard Rothwell, editor of the *Engineering Mining Journal*, wrote:

*Every year brings a wider recognition of the fact that in mining and in practical metallurgy, our American engineers are the most successful and economical in the World, and their services are in request in nearly every country of the world. The difficult and unusual conditions under which they have been forced to carry on their work have developed an ingenuity and fertility of resources, that, guided*

*as they now are by very thorough scientific training, have made the American mining engineer and metallurgist the most successful in the world.*<sup>10</sup>

John H Curle, a British engineer-author and regular contributor to *The Economist* on issues affecting gold, called this period from around 1890 to 1914 ‘[t]he Elizabethan Age of gold mining ... short and brilliant, like its prototype in dramatic literature’.<sup>11</sup> Herbert Hoover referred to it as the ‘Golden Age of American mining engineers in foreign countries ... during which their services were in demand at premium prices’.<sup>12</sup>

### American Mining Engineers Abroad

The expedient marriage between American mining engineers and

“London was the principal centre for organising and deploying vast sums of British mining capital, accompanied by highly ranked and experienced American mining engineers, to the many different mines of the world, including those in South Africa.”

British mining capital during this period seems to have begun with an invitation extended to Baron Edmond de Rothschild by Hamilton Smith, an American mining engineer who was president of the North Bloomfield hydraulic mine in California, to visit this operation late in the 1870s.<sup>13</sup> After this meeting Hamilton Smith became consulting engineer for the Rothschilds in Paris and London, where he was based. He recruited another American mining engineer, Edmund De Crano, and together they formed the London Exploration Company, which was backed by the Rothschilds.<sup>14</sup> It was on De Crano’s recommendations that the

Rothschilds gave Cecil Rhodes the funds to purchase the last diamond mining firm holding out against amalgamation, and achieve complete control over the whole Kimberley mine. It was also through the London Exploration Company that Gardner F Williams was recruited from California, first for the Transvaal Gold Exploration and Land Company in the Lydenburg district, and then for the job of managing De Beers Consolidated Diamond Mines for Cecil Rhodes’ syndicate. Henry C Perkins was also recruited by Smith and De Crano and recommended by Lord Rothschild to Lord Randolph Churchill to accompany the latter on his visit to South Africa and Mashonaland in 1891, shortly after Cecil Rhodes’ British South Africa Company (BSA Co.) had expropriated all of Mashonaland.

London was the principal centre for organising and deploying vast sums of British mining capital, accompanied by highly ranked and experienced American mining engineers, to the many different mines of the world, including those in South Africa. Other American mining engineers went to South Africa through the actions of those already managing various properties on the Witwatersrand, who wrote to friends, colleagues, and former professors in the United States inquiring about and requesting the dispatch of men with specific qualifications and skills. The availability of many American engineers was also caused by Judge Lorenzo Sawyer’s injunction of 1884 in the case of *Woodruff v North Bloomfield Mining and Gravel Company* which abruptly ended hydraulic mining in California and left many local mining engineers without jobs.

### American Mining Engineers in South Africa

American mining engineers who went to South Africa through the good offices of their colleagues in London, Kimberley and Johannesburg came from many different mines in and outside of the United States. The most important mines in the United States from which some of them graduated and gained valuable experience in managing mines and mills on a large scale were: the North Star in Grass Valley, California; the

Standard Consolidated at Bodie, also in California, known for pioneering work in the use of the cyanide process and electrical transmission; Bunker Hill and Sullivan in Idaho, which produced John Hays Hammond, Victor M Clement, and Fred W Bradley; and the North Bloomfield in Nevada County, California, which turned out men like Hamilton Smith, Henry C Perkins and James Hennen Jennings.<sup>15</sup> Outside the United States, the most pertinent mine was the El Callao gold mine in Venezuela whose superintendency had been under Henry C Perkins, Hennen Jennings, George E Webber and Barry Searls. Others who worked on or near the El Callao mine in other capacities were Thomas Mein, who was Perkins's first mine-captain at El Callao before becoming a mine manager at the Nacupai mine nearby; Louis Seymour, who was Perkins's assistant in mechanical engineering; Maurice Robeson, who was mechanical engineer at Nacupai and El Callao mines; EA Blanton, who was an expert on milling at the Union mine in the El Callao district; and Richard Bowen, John Walsh, J Klimke (former surveyor at El Callao) and FHP Cresswell of the Chile mine.<sup>16</sup> All these men went on to occupy mine management and specialist positions in some of South Africa's dominant mining groups.

Testifying before the Transvaal Mining Industry Commission which was inquiring into the grievances of the gold mining industry under the South African Republic regime, Hennen Jennings referred extensively to conditions that prevailed in the Venezuelan mine called El Callao where he had worked as a consulting engineer before he came to the Transvaal. He found that the conditions prevailing in the South African Republic were similar to those he had encountered in Venezuela, and the experience of the United States in dealing with its black populace was instructive for the Republic to consider emulating. Jennings used the Venezuelan example to draw attention to the factors responsible for the high cost of mining which had led to the closing of mines, including the El Callao gold mine.

When Jennings left El Callao in Venezuela in 1889 he went to

London where he was appointed by the firm of Jules Porges & Company – the predecessor to Wernher, Beit & Company, the parent firm of Hermann Eckstein & Company – and proceeded to the Witwatersrand.<sup>17</sup> Having developed close relations with Gardner F Williams in Kimberley, the Eckstein firm had solicited his advice in suggesting the 'ablest' American mining engineers for their Witwatersrand mining properties. Williams recommended that they contact Hamilton Smith and Edmund

**“He found that the conditions prevailing in the South African Republic were similar to those he had encountered in Venezuela, and the experience of the United States in dealing with its black populace was instructive for the Republic to consider emulating.”**

De Crano in London, who then wrote to Hennen Jennings and prevailed on him to take the Eckstein appointment.

Other leading American mining engineers recruited by the Eckstein group of mining companies for the Witwatersrand during the early years between 1887 and 1903 included Joseph S Curtis, 1887; Sidney J Jennings (Hennen Jennings's brother), 1889; Charles Butters, 1890; Thomas Mein, 1891–1892; and George E Webber 1893–1894.<sup>18</sup> Another American mining engineer, who was perhaps as instrumental as the Smith and De Crano firm in recruiting his peers for the Witwatersrand mining capitalists, was John Hays Hammond.<sup>19</sup> He also first went to the Witwatersrand via London, where the firm of Barnato Brothers hired him in 1893 to manage their Witwatersrand mining

properties. By 1894 he had joined the Consolidated Gold Fields of South Africa as chief consulting engineer, and through him numerous prominent American mining engineers went to the Witwatersrand.<sup>20</sup> His papers contain letters introducing American mining engineers visiting South Africa to other American colleagues who were managing numerous mines on the Witwatersrand;<sup>21</sup> and letters to friends engaged in mining in the United States, asking them to recommend the best mine managers, shaft sinkers, skilled miners and foremen, and offering to pay travel expenses, high salaries, bonuses and other incentives;<sup>22</sup> and advice to Fraser & Chalmers on how to compete with British firms and win more orders for mining machinery, with an offer to help in the process. In a letter dated 18 October 1894 and written by Eben E Olcott, a New York City-based mining engineer, to Enoch Kenyon of Johannesburg, Olcott mentioned that a subordinate of Hammond had purchased electric hoists from General Electric, visited drum and shaft manufacturers in Akron (Ohio) and EP Allis Company of Milwaukee for electrical transmission equipment, and inspected the Anaconda works in Montana before returning to Johannesburg.<sup>23</sup> The other mining groups also recruited their American experts, among whom were Thomas H Leggett, Fred Hellman and Dr George F Becker of the United States Geological Survey, who conducted a geological survey for the Neumann group of mining companies.<sup>24</sup>

There was also a sizable contingent of British mining engineers and geologists and a few experts from Europe who were on the Witwatersrand for the express purpose of evaluating its gold mines, including the industry's prospects. They included Professor L de Lauray of the Ecole de Mines in Paris and Bergrath Schmeiser, a German government engineer. Nevertheless, the Americans were dominant. This fact was referred to in frustration and anger by some of the British as 'the Americanisation of British mines'.<sup>25</sup>

#### **Notable contributions by American mining engineers**

Some of the notable contributions

American mining engineers made to the Witwatersrand gold mining industry in its formative years were:

- the introduction of one or two large inclined shafts by Hennen Jennings toward the end of 1889;<sup>26</sup>
- the significant advances in the speed with which larger shafts were sunk, especially by Leslie Simpson and his crews at the Robinson Deep Mine, where they set world records;<sup>27</sup>
- the introduction of the 'direct treatment method' by Hennen Jennings, in which all the pulp from the battery was passed through spitzluten (hydraulic classifiers) where the slimes were eliminated and the rest of the pulp run directly into the leaching tank to be treated with cyanide;<sup>28</sup>
- the introduction by Charles Butters of the bottom discharge in the treatment of large accumulations of tailings by the MacArthur-Forrest cyanide process;<sup>29</sup>
- the introduction of electric power, which replaced steam power in hoisting operations, by Maurice Robeson;
- the adoption of a uniform mapping scale that used either feet or metres, and had proportions such as 1:500 or 1:1000 instead of 1 inch to 40 feet;<sup>30</sup> and
- the founding of a number of professional and technical associations (and companion journals) such as the South African Association of Engineers and Architects in 1891, the Association of Mine Managers in 1892, the Chemical and Metallurgical Society of South Africa in 1894, and the South African School of Mines and Technology in 1896.

In addition to these contributions, the scientific, technical and organisational experience of American mining engineers in managing large-scale operations were critical factors in the development of the Witwatersrand gold mining industry from 1890 into the period 1902–1910. For those like Hennen Jennings and others who came directly from the El Callao Gold mine in Venezuela, the South African Republic's underdevelopment, the adversarial relationship between its regime and mining capital, the difficulties and

exorbitant transportation costs incurred in bringing in mining machinery and equipment, the importation of black labourers to the gold mines, and the frequent reduction of black wages in order to maintain profitability were all very familiar problems and methods. And for both former employees of El Callao and those mining engineers who came directly from the United States, the hierarchical division of labour based firstly on race, secondly on skills, and thirdly on increased differentiation of tasks, particularly in deep-level mining,

“The mining capitalists and mining engineers in particular had organised themselves into what they called a Reform Committee which consisted of eighty armed men, seven of them Americans.”

were also recognisable features. At an earlier period, western alluvial and hard-rock mines of the United States had used skilled and unskilled white and Chinese labour, and a greater division of labour, during the opening up and development of deep-lode mines.

The Mine Managers' Association of the Witwatersrand, pioneered by American mining engineers in 1892, was characterised as being an intermediary between capital and labour and of providing important services, such as an interchange of experiences upon such subjects as:

- the relative advantage of employment of white or 'kaffir' labour in the various departments of mining work;
- the introduction of the contract [tribute] system [white skilled miners commanding gangs of African labourers performing piece-work];
- the efficiency and economy of hand as opposed to machine drilling [by Africans]; and
- the numerous problems presented

in mill management ...<sup>31</sup>

Apart from the obvious racial attitudes mine managers exhibited they were also very anti trade unions, even when the latter were exclusively white. Again, some of these mining engineers had achieved notoriety in the United States as being totally and actively opposed to combinations by labourers, and in some cases played leading roles in breaking up strikes, before they went to the Witwatersrand.<sup>32</sup> These attributes, functions and experiences of American mining engineers, and their contributions to the state of the art in gold mining, all helped in some ways to shape the labour structure that evolved on the Witwatersrand gold mines between 1890 and 1899.

#### Some Revealing Observations

"Johannesburg, in the Transvaal is like an American city, and is the center of the mining industry."

*The Engineering and Mining Journal*, December 3, 1887

"... many of the leading men in Johannesburg are Americans; indeed, the mining industry is chiefly under the guidance of American mining engineers."

*The National Geographic Magazine*, November, 1896

"The place (Witwatersrand) has an attraction for the American. It has size in its favour; its plant is designed on a large scale – on an American scale."

*The South African Mining Journal*, April, 1907

The first quote is from a brief news piece written by Richard P Rothwell and Rossiter W Raymond, two of America's distinguished mining engineering writers who were co-editors of *The Engineering and Mining Journal* (E&M) which was based in New York City. Rothwell and Raymond were informing their readership in general terms how the diamond mines of Griqualand West (especially Kimberley) and the gold<sup>33</sup> mines of the Transvaal (the Witwatersrand in particular) had attracted capital and labour from nearly every part of the world as well as how both mining industries were "developing at a wonderful rate." The E&M was established in March 1866 and was the major medium through which American mining engineers

communicated with one another their knowledge, experiences and opinions concerning mines in which they had worked throughout the world.

The second quotation is from a paper titled “The Witwatersrand and the revolt of the Uitlanders” authored and read by Dr George F Becker before the National Geographic Society on October 16, 1896.<sup>34</sup> Dr Becker’s paper dealt essentially with the geology of the main gold-bearing rock strata, estimates of its gold content made by experts from England, Germany and France, the history of the Afrikaners, particularly why and how they came to settle across the Vaal river (Transvaal) and founded the South African Republic (S.A.R.) in which promising gold deposits were discovered.<sup>35</sup> Becker was employed by the United States Geological Survey Office based in Washington, D.C. as a representative of the western states’ mining industry. He was the first of many eminent American mining and European geologists to visit the Witwatersrand gold fields where, early in 1896, he conducted a geological survey for the S Neumann group of mining companies.<sup>36</sup> One of the primary investigations was to search for the westward continuation of the main reef series which were discovered in 1884 and were similar in importance to the mother lode in California. After several months of work, he established the existence of an extensive fault, a sudden break in the rock structure in which the gold veins were embedded, beyond which the main series was lost.<sup>37</sup> He constructed a model to illustrate his findings which were subsequently proved correct and useful in determining how to pursue the lost veins. Dr Becker later became an honorary member of the mine-owners’ organisation, the Witwatersrand Chamber of Mines, which was formed in 1887.

Dr Becker’s paper focused on the conflict that developed with the growing influx of “uitlanders” (outlanders or foreigners) who came from many parts of the world to search for and mine gold or trade on the mining fields within the republic, especially on the Witwatersrand (White waters ridge) where they were concentrated. These outlanders comprised mining capitalists, mining engineers, miners,

petty capitalists and other fortune seekers. The mining capitalists and mining engineers in particular had organised themselves into what they called a Reform Committee which consisted of eighty armed men, seven of them Americans.<sup>38</sup> This Committee was an important detachment of Cecil Rhodes’ and Dr Leander Starr Jameson’s abortive attempt around late 1895 and early 1896 to seize the Witwatersrand and overthrow the Afrikaner republic. Of the seven Americans on the Committee, five were very well-known mining engineers. These were John Hammond Hays, a leader in the Committee, Thomas Mein, Charles Butters, Vincent M Clement and Joseph Curtis Story.

John Hammond Hays was the consulting engineer for Cecil Rhodes’

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Consolidated Gold Fields of South Africa, a position he retained as he operated out of London from late 1896 until 1900 when he returned to the United States where he continued to be a mining consultant for large mines financed by British capitalists. In 1903 he became general manager, consulting engineer, and a director of the Guggenheim Exploration Company which was then the largest mining corporation in the world. When he severed his relations with this firm in 1907, he was “the highest salaried man in the world.”<sup>39</sup> At the Republican Party Convention of the summer of 1908, he was the leading Vice-

Presidential candidate from the state of Massachusetts but dropped out at the last minute when word arrived that any but a New York Vice-Presidential candidate would jeopardise the election of William H Taft.

The two remaining Americans who were in the Reform Committee were Richard A Parker who had helped smuggle guns, and Gardner F Williams who was also Cecil Rhodes’ General Manager of De Beers Consolidated Mines Limited and American Consular Agent in Kimberley. Gardner F Williams was one of the earliest graduates of the University of California and the first in the long line of American mining engineers who constituted the technical backbone of South Africa’s minerals industry during its formative years.<sup>40</sup> He operated from Kimberley where he supervised the packing of guns into Standard Oil drums with false bottoms and assigned these to John Hammond Hays in Johannesburg who had them stored on different mining properties under his charge. It is therefore evident that Dr Becker’s article on the revolt of the foreigner, who included Americans, against the South African Republican regime and the Rothwell-Raymond piece on the growth and development of the diamond and gold mining industries reveal respectively the earlier connections between the United States mining engineers and the South African mining industries as well as the growing interest in these industries in the United States especially among mining engineers, mining geologists and prospective investors.

The third quote was by WR Grace, one of the two sons of William Russell Grace, the “Pirate of Peru,” founder of W R Grace & Company, the first Catholic Mayor of New York City (1881–2, 1885–6), and a major stockholder of Ingersoll-Sergeant Drill Company, whose mining drills were used extensively on the Witwatersrand but was also in fierce competition with another American drill manufactured by the Rand Drill Company. This competition was eliminated in 1905 when both firms merged into what was called Ingersoll-Rand under the laws of the state of New Jersey. The younger W R Grace was the first vice president of Ingersoll-Rand and a director of W

R Grace & Company. He had gone to South Africa to visit his company's operations which had started in 1904 under the name Ingersoll-Sergeant as well as to gather intelligence on business opportunities in that country. In the interview which was reported in *The South African Mining Journal* (S.A.M) of April 27, 1907, Grace was asked a number of questions including the following: his impressions of Johannesburg, how the Witwatersrand compared with American mining fields, whether the Witwatersrand was likely to attract American capital, and whether the Transvaal (British) colony had an agricultural future.<sup>41</sup> His replies to these questions were that the Witwatersrand was the most "Yankeelike" and "hustling" place he had seen outside the United States; the Witwatersrand mining fields compared "very well indeed" to those of the United States;<sup>42</sup> there was "no reason why our investors should not follow our engineers in the exploitation of the (Witwatersrand) Rand, but many that they should;" the Transvaal most decidedly had an agricultural future.

An analysis of Grace's interview shows a few interesting aspects of how the Witwatersrand was Americanised. Plant design in the Rand gold mines (and on the Kimberley De Beers Consolidated Mines Limited) was on a large scale like the large mines in the western mining districts of the United States such as the Bunker Hill & Sullivan Mining and Concentrating Company in Idaho, the North Bloomfield in California and the Standard Consolidated at Bodie, also in California. These mines were operated on the principle of specialisation in the execution of numerous and differentiated tasks involved in mine exploration and development in particular. Efficiency in mining the ore, transporting, crushing and treating it in large quantities at minimum cost per ton was the most desirable objective pursued by every mine manager. Large-scale plant layouts, both on the surface and underground, and the efficient as well as cost effective processes were brought to the Rand (and Kimberley) by American consulting mining engineers who had acquired the requisite technical knowledge and experience in

managing large and deep level mines primarily in the United States. Surface mining equipment on the Rand gold mines was modern and as good as that which was found anywhere else. Some of this equipment was imported from the United States especially from Chicago and New York – New Jersey areas. Firms such as Babcock & Wilcox, Fraser & Chalmers, General Electric and Ingersoll-Sergeant were household names on both the diamond and gold mines of the Cape (British) colony and the Transvaal respectively long before the Union of South Africa came into existence in 1910. Evidently, early United States-South Africa connections went beyond technically skilled and very highly paid American engineers who worked on the diamond and gold mines of South Africa.

W R Grace's remark concerning American capital following American mining engineers into the Witwatersrand mines was realised a decade later in 1917 when the Anglo-American Corporation was formed with British and American capital.<sup>43</sup> The latter was put up by J P Morgan & Company and Newmont Mining Company following the advice of yet another prominent American consulting mining engineer W L Honnold who had served as a consulting engineer to the Consolidated Mines Selection Limited on the Rand where he later became a director. Honnold, cooperating with another leading American mining engineer, Herbert Clark Hoover, who had also been employed by British mining capital, facilitated Morgan's and Newmont Mining's willingness to invest in Ernest Oppenheimer's (Harry Oppenheimer's father) mine holdings on the Witwatersrand.<sup>44</sup> Herbert C Hoover later became the thirty-first President of the United States from 1929 to 1933. Apparently, British and American capital at different stages in the history of mining in many parts of the world relied heavily on American consulting engineers for advice, technical evaluation of mining properties and mine management. Consequently, their services were in great demand especially in regions where mining was underdeveloped when compared to the United States. South Africa was

one such place. ■

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# The role of the Film and Publications Board

Classification decisions take into account the human rights values enshrined in the Constitution, especially with regard to the right of everyone to have their dignity respected and protected.

By Lufuno Novondwe

The regulator of the films, games and certain publications which are not subjected to the press code, Press Ombudsman and Broadcasting Complaints Commission of South Africa (BCCSA) is the Film and Publication Board (FPB).<sup>1</sup> The FPB has been created by a statute called Films

and Publications Act, 65 of 1996 (FPA) as amended in 2004 and 2009 which came into effect on 15 June 1998. FPB is an organ of State and derives its mandate from the FPA. The FPB mandate is to regulate the creation, production, possession and distribution of films, games and certain publications

in order to provide consumer advice to enable adults to make informed viewing, reading and gaming choices, both for themselves and for children in their care; protect children from exposure to disturbing and harmful materials and from premature exposure to adult experiences; and make the

use of children in and the exposure of children to pornography punishable.<sup>2</sup>

In order to achieve its mandate the FPB is empowered to appoint Classification Committees (CC) as may be prescribed.<sup>3</sup> The CC has a duty to classify the films, games and certain publications which are not subscribed to the press code.<sup>4</sup> The FPA outlines the powers, duties and functions of the FPB, Council and the Appeal Tribunal.

### International experience

The classification (or rating) of films is not a uniquely South African practice or preoccupation. There are film classification authorities in England, Australia, India, Brazil, Canada, Finland, Hong Kong, Singapore, Nigeria, Mauritius and Ghana, to name but a few. In some countries (Australia and South Africa, for example), an official government body decides on classification and ratings, while in other countries, such as the United States of America, it is done by industry bodies with no official government status.<sup>5</sup>

Classification and rating systems are country and culture-sensitive. Although countries may share many common cultural values, there are also values and virtues that are unique to a particular country. Classification decisions therefore reflect the norms, values, virtues and standards of tolerance of the country within which a particular classification or rating authority functions. Classification decisions of the CC appointed by the FPB, for instance, are based on the South African Constitution<sup>6</sup> and classification guidelines.<sup>7</sup>

### Legislative framework

The FPA must be interpreted and applied with reference to the Constitution, most notably section 16 of the Constitution which states that:

“Everyone has the right to freedom of expression, which includes: freedom of the press and other media; freedom to receive or impart information or ideas; freedom of artistic creativity; and academic freedom and freedom of scientific research.”

The right in this section is limited as it does not extend to: propaganda for war; incitement of imminent violence; or advocacy of hatred that is based on

race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

This reference to the Constitution emanates from the fact that the Constitution is the supreme law, and therefore any law or conduct inconsistent with it is invalid. The obligations imposed by the constitution need to be fulfilled and observed at all times.

The Constitutional Court in its decisions has nevertheless stressed that the right is of vital importance for our society and for each individual in our society and has argued that the right should be vigorously protected.<sup>8</sup>

Chapter Three of the FPA outlines the way in which publications must be classified while chapter four outlines the way in which the films and games must be classified. The decisions of the CC shall be taken by a majority

“Consumer information, through content-alert symbols, on the other hand, is provided to alert the public to contents which some may wish to avoid, even if the film or publication is rated for “all ages”.”

of votes: provided that where there is an equality of votes the FPB shall appoint an additional member to such committee so as to enable the committee to come to a majority decision.<sup>9</sup> A decision of the CC shall for the purposes of this Act be deemed to be the decision of the FPB.<sup>10</sup> The CC must ensure that the decision that is taken is promoting the enshrined rights in the Constitution<sup>11</sup> and that it is in line with the objectives of the FPA.

Should the classification decision deviate from the Constitution and the FPA, it is likely that the decision would be flawed and accordingly overturned. There is no single yardstick to determine whether a publication should be classified. In the premise the classification committee must consider

the following during their classification process:<sup>12</sup>

(a) the right to freedom of expression within the law;

(b) the right to access to information within the law;

(c) the right of children to be protected from materials that is harmful to their well-being;

(d) the right of the public to be protected from unsolicited exposure to material that some may find offensive and

(e) the principle that classification decisions take into account the human rights values enshrined in the Constitution, especially with regard to the right of everyone to have their dignity respected and protected.

The decision of the CC is not final but is subject to appeal. Any aggrieved person who is not satisfied with the decision of the CC has a right to lodge an appeal to the Appeal Tribunal within 30 days from the date of the decision of the CC.<sup>13</sup> If you are still aggrieved by the decision of the Appeal Tribunal, you have recourse to apply for a review in the High Court. The role of the Appeal Tribunal will be discussed below.

The FPA calls for the establishment of the FPB, Council and the Appeal Tribunal which shall perform the functions, exercise the powers and carry out the duties, assigned to, conferred on or imposed upon them in terms of the FPA or any other law.<sup>14</sup> The FPB and the Appeal Tribunal shall be independent and function without bias.

The Council is an accounting authority and it reports to the Executive Authority, Minister of Home Affairs. The Executive Authority is also a shareholder and is responsible for the appointment of the Council. The Council shall in consultation with the Minister, issue directives of general application, including classification guidelines, in accordance with matters of national policy consistent with the purpose of the FPA, appoint the Chief Executive Officer (CEO) who represent the FPB; determine the qualifications, experience and terms and conditions of employment of classifiers who constitutes the CC.<sup>15</sup>

The Appeal Tribunal shall consist of a chairperson; and eight other members who are appointed by the

Minister of Home Affairs. A member of the Appeal Tribunal designated by the Minister shall act as chairperson of the Appeal Tribunal during the chairperson's absence. The chairperson and four other members of the Appeal Tribunal shall constitute a quorum of the Appeal Tribunal. Decisions of the Appeal Tribunal shall be taken by a majority of votes, and in the case of an equality of votes the chairperson shall have a casting vote.<sup>16</sup>

The chairperson of the Appeal Tribunal may, on good cause shown, suspend the decision appealed against from the CC until the decision is given on the appeal; shall convene a meeting of the Appeal Tribunal and inform the appellant of the date and time when the appeal is to be heard; may determine the procedure to be followed; may call upon any person who in his or her opinion is an expert on any matter relevant to the appeal, including any person who has experience in or knowledge of any matter relating to community development, education, psychology, religion, law, drama, literature, communications science, photography, cinematography, gender matters, children rights or any other relevant field of experience as may be prescribed.<sup>17</sup>

The Appeal Tribunal may refuse the appeal and confirm the decision in question, or allow the appeal, either wholly or in part, and give such decision as the FPB should in its view have given, and amend the classification of the film, game or publication, specifying the section of the FPA upon which the classification is in terms of its decision based, and may impose other conditions in respect of the distribution or exhibition of the film, game or publication.<sup>18</sup> The CEO shall in the case of a successful appeal against a decision whereby an application for registration, exemption, permit or licence is refused, issue the requisite certificate of registration, exemption, permit or licence, subject to the conditions, if any, imposed by the Appeal Tribunal.<sup>19</sup> A decision of the Appeal Tribunal shall for the purposes of this Act be deemed to be a decision of the FPB.<sup>20</sup>

### Classification guidelines

The FPB has established, with

public participation, a set of guidelines which are used by classifiers when classifying or rating films and publications. The guidelines identify certain classifiable elements and it is the frequency and intensity of these elements in the film or publication, and its overall impact on viewers that determines the classification or rating of a film or publication. The classifiable elements which impact on the rating of a film or publication, and which are common to most similar bodies, include violence, sex, nudity, drug and substance abuse, language, blasphemy and prejudice or negative stereotyping based on race, ethnicity, gender or religion or other group-identifiable characteristics. The theme of a film may also influence ratings.<sup>21</sup> With

“With the aim of protecting children from potentially disturbing and harmful materials, the committee will impose an appropriate age restriction, depending on how often and how intensely these classifiable elements occur in the film. Age restrictions are legally enforceable.”

the aim of protecting children from potentially disturbing and harmful materials, the committee will impose an appropriate age restriction, depending on how often and how intensely these classifiable elements occur in the film. Age restrictions are legally enforceable. Distribution and/or exhibition contrary to age-restricted decisions are offences under the Act.

Consumer information, through content-alert symbols, on the other hand, is provided to alert the public to contents which some may wish to avoid, even if the film or publication is rated for “all ages”.

### Conclusion

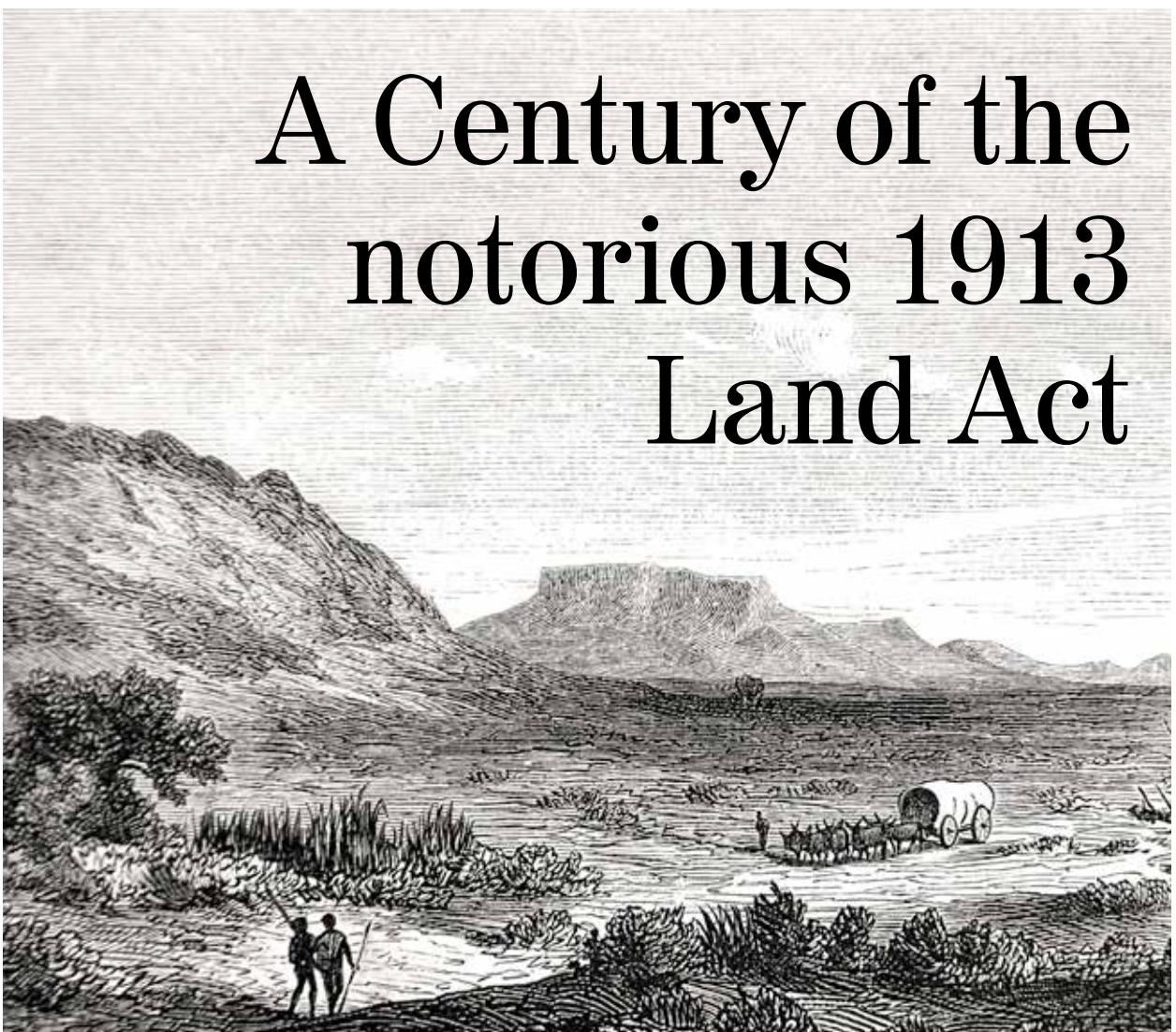
It is evident that the primary mandate of the FPB is to protect and safeguard the interests of children. The FPB must not deviate from this mandate, regardless of the intensity of the complaints and numerous mixed emotions from the public as a result of a publication that is involved in the classification process. The FPB should be guided by the FPA, the Constitution and the appropriate guidelines. In any event, the FPB is required to publish in a gazette “the guidelines which the board and the Appeal Tribunal may apply in order to determine what is harmful or disturbing”.<sup>22</sup>

The PFA has created a platform in which members of the public can raise contentions regarding films, games and certain publications in the media. The PFA allows all members of the public, without discrimination, to lodge complaints against any films, games and publications that are deemed to be inappropriate. ■

### References

- <sup>1</sup> The FPB is an organ of State. Its decisions are “administrative actions” in terms of the Promotion of Administrative Justice Act, 3 of 2000. In terms of section 33(1) of the Constitution, everyone has the right to administrative action that is “lawful, reasonable and procedurally fair.”
- <sup>2</sup> Section 2 of the Film and Publications Amendment Act 2008
- <sup>3</sup> Section 10 Ibid
- <sup>4</sup> Section 16(4) of Films and Publication Amendment Act. A film submitted to the Board is referred to a classification committee appointed from a panel of examiners.
- <sup>5</sup> Chetty I and Basson A, Survey of public perception and use of FPB classification guidelines in making viewing choices for children, FPB Research Report, March 2007, p4. To access this report visit <http://www.fpb.org.za>.
- <sup>6</sup> South African Constitution Act, (Act 108 of 1996).
- <sup>7</sup> Chetty I and Basson A, Survey of public perception and use of FPB classification guidelines in making viewing choices for children, FPB Research Report, March 2007, p4. To access this report visit <http://www.fpb.org.za>.
- <sup>8</sup> See *Print Media South Africa and Others v Minister of Home Affairs and Others* [2012] ZACC 22.
- <sup>9</sup> Section 10(2) of the Film and Publications Act.
- <sup>10</sup> Section 10 of the Films and Publications Amendment Act.
- <sup>11</sup> South African Constitution Act.
- <sup>12</sup> Film and Publication Board, “Recommendation for classification of a publication under section 16(1) of the Film and Publication Act, Title: The Spear – Hail to the Thief II by Brett Murray”.
- <sup>13</sup> Section 20(1) of the Films and Publications Act.
- <sup>14</sup> Section 3 of the Films and Publications Act.
- <sup>15</sup> Section 4A(1) of the Films and Publications Act.
- <sup>16</sup> Section 5 of the Films and Publications Act.
- <sup>17</sup> Section 20(2) and 6(4) of the Films and Publications Act.
- <sup>18</sup> Section 20(3) of the Films and Publications Act.
- <sup>19</sup> Section 20(4) of the Films and Publications Act.
- <sup>20</sup> Section 20(5) of the Films and Publications Act.
- <sup>21</sup> Chetty I and Basson A, Survey of public perception and use of FPB classification guidelines in making viewing choices for children, FPB Research Report, March 2007, p10. To access this report visit <http://www.fpb.org.za>
- <sup>22</sup> Section 31(3) of the Films and Publications Act 66 of 1995.

# A Century of the notorious 1913 Land Act



The 1913 Land Act laid a basis for this balkanisation of the country, handing the best and most land to white settlers and giving the arid and least productive parts of the country to the indigenous Africans.

By Phala K

The year 2013 represents a century since the passing of the diabolical Natives Land Act by the Union Parliament. Objects of the Act were stated as follows: “to make further provision as to the purchase and leasing of land by natives and other persons in the several parts of the Union and for other purposes in connection with the ownership and occupation of land by natives and other persons.” The

Act legalised into statute the massive land-robbery which had started with settler colonialism and the wars of resistance and dispossession. For a period of 250 years the indigenous African people had been fighting spear in hand against mounted gunmen over land, cattle and freedom. The notorious Act was intended to legitimise what had already been done by blood, death and sweat, and confirm white land

ownership. It ensured that Africans lost control of their ancestral land to white settlers. The Act was the cornerstone of separate development.

The ruling ANC articulated this point even better in its submission to the TRC: “it is necessary to emphasise that formal apartheid was preceded by a sustained period of dispossession, denial and subordination. The process of colonial conquest in South Africa

lasted for over two centuries; from the destruction of Khoisan communities in the seventeenth and eighteenth centuries, through the bloody century of warfare in the present day Eastern Cape Province, to the military defeats further north in the late nineteenth century. Modern South Africa was built on the foundations of conquered territories, captive peoples, scorched earth and shattered sovereignties.”(ANC, 1996,p.21)

The racists claimed and still claim that when the colonial powers set foot on our soil it was barren and they built a thriving modern economy. However, as the SACP points out:

“Prior to colonial conquest, the indigenous peoples had developed their own independent culture and civilisation. They mined and smelted iron, copper and other metals and fashioned them into useful implements. Their system of extensive agriculture and livestock breeding was well-suited to the type of country and tools at their disposal. Private property in land was unknown, food and shelter were freely shared, even with strangers. But when the colonists began their ceaseless acts of armed aggression, the African people resisted bravely to defend their cattle and their land from robbery and their people from enslavement. They took up the spear against the bullets of the invader with his horses and wagons.”<sup>1</sup> These are the roots of colonialism of a special type and apartheid.

**The Historical Roots and Significance of the Land Act**

Essentially the Act aimed to legalise the land robbery that had been taking place in the country for a period of more than two centuries. Such dastardly robbery started with the systematic extermination of the Khoikhoi and San who had peopled the Cape for millennia. The white settlers initially related and bartered with them, but they mistook their hospitality and ubuntu for cowardice and weakness. They attacked and decimated them with horrible brutality and inhumanity. They took their land, cattle, and livestock, and turned most into vagrants and slaves.

Such bloody land and cattle robbery continued in the wars of resistance and

dispossession against the AmaXhosa under Sandile, Makana, Cungwa, Hintsa, Ngqika, Sirhili, Ndlambe and Maqoma, and proceeded against the Basotho of King Moshoeshoe, the Bataung under Moletsane, the Batlokwa under Sekonyela and Chieftainess Mmanthatsi. Such bloodthirsty and trigger-happy land robbery proceeded against the AmaZulu under Dingane, Mpande, Cetshwayo and Dinizulu, and continued against the Batswana under Sekgoma (Bamangoato), Sechele (Bakwena), Gaseitsiwe (Bangwaketse) and Mogale Mogale (Bapo). It continued against AmaNdebele under Mzilikasi and Musi and the Bapedi under Sekwati and Sekhukhune.

After the discoveries of diamonds in Griqualand West in 1867, and

“ Such dastardly robbery started with the systematic extermination of the Khoikhoi and San who had peopled the Cape for millennia.”

subsequently of gold on the Reef in 1886, the wars of resistance and dispossession became even bloodier and more brutal. This could be seen in the wars fought thereafter against AmaNdebele under Mokopane, Bahananwa under Mmaleboho, Bahlalerwa under Makgoba, AmaShangane under Ngungunyane and VhaVenda under Silwavusikhu Mphephu Ramabulana Makhado. The last of such wars to finish was fought in the Nkandla forests against Chief Bambatha Ka Zondi in 1906. The 1913 Land Act was the culmination of this massive land and cattle robbery that started with colonisation itself.

As can be seen from the above elaboration, “the greatest impact on the evolution of the South African nation-state was made by European colonial settlement. On the one hand, colonialism interrupted internally-driven advancement of indigenous South Africa communities along the ladder of human development. It resulted in the subjugation of the

African population, including the Khoi and the San who were subjected to genocidal campaigns, as well as Indian communities and slaves from Southeast Asia and other areas. On the other hand, the advanced industrial base of the colonial powers which made such subjugation possible, introduced into the South African geographic entity the application of advanced forms of economic production and trade.”<sup>2</sup>

The other objective of the Land Act was to declare the indigenous African people landless. The original inhabitants of the land who settled on it centuries before the European settlers set their foot on its shores, as can be seen with the Mapungubwe and Mapela ruins, and the BaPhalaborwa, Musina, Makgane and Gauteng mines, were rendered landless by the stroke of a pen. The original owners of the land for centuries were now landless people in their own country. Through this Act 87% of the land was placed in the hands of the settler-colonialists.

Through this Act the colonial settlers were now the ‘rightful’ and legal owners of the land acquired by force of arms, blood and death. As the *Morogoro Strategy and Tactics* articulates, “the struggle for freedom and democracy in South Africa was essentially an anti-colonial struggle. Beginning in 1652, Dutch and British colonialists waged wars of conquest against the indigenous population, to usurp their land and its riches and to establish an outpost which would act as a source of natural resources, as a terrain of expansion and settlement, and as a market for their goods. Great Britain finally established its colonial authority over the full extent of South Africa at the end of the Anglo-Boer War of 1899-1902. African communities from the Cape to the Limpopo waged heroic resistance to colonial occupation. Despite being outgunned, they showed rare stoicism in many battles spanning over two and half centuries. However, their resistance was fragmented among and within various ethnic groups, and it could not stand the tide of superior armed force backed by a developed economic and political base of the imperial powers. The defeat of the Bambatha Rebellion in 1906 marked the end of the wars of resistance.

Most of the white settlers resolved to make this country their home and, in their world view, an 'independent' extension of the colonial metropolis. This found formal expression in the establishment of the Union of South Africa in 1910, when Britain ceded political power to the white settler minority."(ANC, 1969, p.48)

These are the historical, political and economic roots of the 1913 Land Act.

The Land Act was a cornerstone of the consolidation in the making of South Africa as a colony of a special type. "In the oppression, dispossession and exploitation of blacks, British imperialism and Afrikaner nationalism found common ground. This was the basis for the establishment of the Union of South Africa in 1910. In that year South Africa was established as a political entity with a centralised state power. These new national structures were based on the effects of centuries of colonial conquest and dispossession. They reproduced, in changed forms, the essential features of colonial domination that had existed before the Union of South Africa. The 1913 Land Act, confirming land ownership for the African majority to a tiny arid proportion of the country, legally entrenched and intensified the results of centuries of colonial land dispossession."(SACP, 1989)

The 1913 Land Act was itself a successor to another notorious piece of legislation passed in 1894 referred to as the Glen Grey Act. This ancestor of the Land Act removed all the communal land rights that the indigenous Africans had from time immemorial. It introduced individual tenure which limited the original rights that the people had to the land and even forced many off their land. The 1913 Act was therefore an intensification of this process, taking away many of the remaining property rights of Africans.

### Consequences of the Land Act

The 1913 Land Act had a number of both intended and unintended consequences. The formation of the ANC in 1912 was itself partly a consequence of the 1913 Land Act which was already been debated as a Bill in 1911. The formation of the

ANC was therefore also a response to the proposed seizure of 87% of the indigenous land. The early African intellectuals, religious leaders and chiefs who met in Bloemfontein on 8 January 1912 were well aware of the impending Act. "The Act which was rushed through Parliament under these circumstances was to have far-reaching effects, not only on economic development and the evolution of native policy, but also on the ideology of African nationalism as expressed by the National Congress."<sup>3</sup> Sol Plaatjie captures the mood of the period well by saying, "awakening on Friday morning, June 20, 1913, the South African native found himself, not actually a slave, but a pariah in the land of his birth." However it is a historical fact that even without the

“The continuous process of proletarianisation of landless Africans led to their unstoppable urbanisation. These Africans came to settle in the environs of the urban centres no longer as migrants but as dwellers.”

promulgation of the Act the process of forming a Native National Congress for the entire territory of the Union of South Africa was on from as early as 1909. With and without the Land Act a National Native Congress was going to be formed in 1911, 1912 or 1913 after the White-only Union in 1910.

The Land Act was also the basis for a plethora of subsequent segregatory, divisive, exploitative and oppressive legislation. Once the Land Act was in place further legislation was promulgated to support it. That legislation included the Natives Urban Areas Act of 1923 which allowed local authorities to regulate and control the so-called influx of Africans from the reserves into the urban centres.

This Act was further tightened by the Black Urban Areas Consolidation Act of 1945. The Industrial Conciliation Act of 1924 prohibited the registration of Black trade unions. Black trade unions were emerging robustly with the ICU at the zenith of its power. The Immorality Act of 1927 banned sexual relations between whites and blacks, which prohibition was extended to the coloureds and Asians in 1950. This Act was further tightened and extended through the Prohibition of Mixed Marriages Act of 1950.

The 1913 Land Act was itself tightened by the demonic 1936 Native Trust and Land Act which declared rural areas settled by the Africans in reserves as trust land. It initiated a process of the betterment schemes and cattle culling mechanisms in African rural areas. It regulated evictions of the so-called undesirable Africans on so-called white-owned land.

The Asiatic Land Tenure and Indian Representation Act of 1946 and the Coloured Persons Settlement Act of 1946 were designed to deny Indian and Coloured people land and settlement rights. The Group Areas Act of 1950 consolidated these Acts and ensured that there was a racial geography in the commercial and residential areas. White settlements would be near job opportunities in towns and cities, whilst African townships, Coloured and Indian locations would be designated farther away from mines, factories and town centres. Blacks would not be allowed to buy property or stay in white designated areas.

The Prevention of Illegal Squatting Act of 1951 which severely dealt with the blacks who came to settle in towns was a further extension on the 1913 Land Act. The continuous process of proletarianisation of landless Africans led to their unstoppable urbanisation. These Africans came to settle in the environs of the urban centres no longer as migrants but as dwellers. There was massive overcrowding and the conditions were inhuman and despicable. Sofasonke Mpanza was a leader of the squatter movement that forcefully settled homeless Africans on land. He was a brave and fearless fighter. His work forced the white municipal councils to provide houses

and accommodation to the urban squatters. Selope Thema also bought land for the homeless in Springs, which location came to be called Kwa-Thema to this day.

The Bantu Authorities Act of 1951 initiated the establishment of Bantustans in the reserves by introducing the tribal, regional and territorial authorities system a forerunner to the Bantustans. The epic rural resistance of Ga-Matlala, Witzieshoek, Zeerust, Pondoland, Zululand, Thembuland and Sekhukhuneland were partly a response to this descendant of the Land Act.

The strangely titled, Natives Abolition of Passes and Co-ordination of Documents Act of 1952 extended the existing pass system and further tightened it to compel all Africans above 16 years of age to carry a pass at all times. It criminalised the non possession of a pass, regulated the movement of Africans and declared urban areas lily-white. The pass system was intensified even further through the Native Laws Amendment Act of 1952. Forced removals of black settlements from areas regarded as 'black spots' in white areas and suitable only for white settlement were enforced through the Black Resettlement Act of 1954. This Act was to lead to the subsequent forced removals in District Six, Sophiatown and Cato Manor.

The Transkei Constitution Act of 1963 was designed to give the first Bantustan so-called independence. This was to be succeeded in the subsequent years by the Bophuthatswana, Venda and Ciskei Acts of a similar kind. There was also the establishment of so-called self-governing bantu territories in Lebowa, Gazankulu, Qwaqwa, KaNgwane, KwaNdebele and KwaZulu, which had their own pseudo-parliaments and miniature replicas of laws and cabinets. The intention was to create dummy toy-telephones in the reserves based on the 1913 Land Act and particularly to stem the tide of urban movement by Africans in the rural areas. This implementation of the Bantu Authorities Act was further consolidated through the Bantu Homelands Citizenship Act of 1970, the Bantu Homeland Constitution Act of 1971, Self-governing Territories

“Forced removals of black settlements from areas regarded as ‘black spots’ in white areas and suitable only for white settlement were enforced through the Black Resettlement Act of 1954. This Act was to lead to the subsequent forced removals in District Six, Sophiatown and Cato Manor.”

Constitution Act of 1971 and the Black Affairs Administration Act of 1971. All these laws were designed to make Africans citizens of their own rural reserves not of the Republic of South Africa. There was also the aborted attempt to establish black urban town councils. The 1913 Land Act laid a basis for this balkanisation of the country, handing the best and most land to white settlers and giving the arid and least productive parts of the country to the indigenous Africans. It was a foundation stone on which all other subsequent legislation dealing with land was based. All these various pieces of legislation were also a direct response to the resistance struggles of the Black people. Each law responded to the particular content and context of the freedom struggle and its

“A non-racial South Africa must be able to fully undo the damage done by the notorious 1913 Land Act through its land restitution and redistribution policies and programmes.”

intensity. Whether it was the anti-pass campaigns, the urban squatter movement, the rural uprisings, the anti-forced removals, strikes, boycotts, marches, demonstrations and stay-aways, the regime responded with even more ferocious legislation to stem the tide of the struggle.

Almost all the early freedom songs were about the land, such as *Thina sizwe isemnyama sikhalela izwe lakithi elathathwa ngabamhlophe maba uyeke umhlaba wethu* (we the black nation are fighting for our land which has been taken by the whites, let them leave our land); *Sikhalela izwe lakithi lona elathathwa ngamagalanjane, uMzulu-Mxhosa-Mosotho hlanganani* (we are crying for our land taken by the treacherous people, Mzulu, Mxhosa, Mosotho let's unite); *iAfrika mayibuyee* (let Africa return); and *iAfrika izwelethu* (Africa is our land.)

The Apartheid system was entrenched after the 1948 white-only General Elections. As could be seen from the previous paragraphs legislation passed post-1948 further entrenched the Africans' loss of 87% of the land and consolidated its ownership, possession and control in the hands of the white settler minority.

### The Land Act and 2013

In 2013 we must look back at the hundred years since this Act was passed, particularly in the context of the land restitution and redistribution work of the new democratic government since 1994. The centenary of the Land Act must give the country and nation an opportunity to look back at progress already made, and work still to be done in this regard. The centenary must be used to spur the nation to redouble efforts to undo the damage done by the 1913 Act. The Freedom Charter in 1955 proclaimed:

*THE LAND SHALL BE SHARED AMONG THOSE WHO WORK IT.*

*Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it, to banish famine and land hunger;*

*The state shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers;*

*Freedom of movement shall be guaranteed to all who work on the land;*

*All shall have the right to occupy land wherever they choose;*

*and People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished.<sup>4</sup>*

How far are we from this dream? What progress have we made towards its attainment?

In 1994 the new democratic government passed the Restitution of Land Rights Act. This Act must be fully implemented to achieve the objectives set out. One of the most progressive pieces of legislation in this regard is the Extension of Security of Tenure Act, which took into account the tenure of Blacks on white-owned land. President Jacob Zuma articulated the matter on the occasion of the ruling ANC's 101 anniversary rally as follows: "As outlined, the year 2013 marks the centenary of the 1913 Land Act. In 1994, we inherited this highly inequitable distribution of land ownership. Eighty seven percent of commercial arable land was owned by white farmers and businesses and 13 percent of arid land was in the hands of the African majority. We state categorically that the Land Act marked the beginning of all problems we face today, such as landlessness, poverty and inequality. Land was taken away from the African people in order to turn them into a cheap reservoir of labour. Overnight, people who had land and cattle suddenly had nothing, and lost their self-reliance, dignity and independence. This historical injustice must be addressed in order to complete our freedom."

But the democratic government since 1994 has faced numerous obstacles in its efforts to redress these past injustices. The ANC is determined to speed up the process of land redistribution. As it points out:

"At the 52nd National Conference in Polokwane we committed ourselves to transfer thirty percent of the 82 million hectares of agricultural land which was white-owned in 1994 to black people by 2014. The ANC government is unlikely to meet this target given the slow pace of land reform. We have directed our government to urgently

**“We will replace the principle of ‘wiling buyer, wiling seller’ which has not sufficiently addressed the problem, with the ‘just and equitable’ principle when expropriating land for land reform purposes.”**

speed up the process through a variety of measures. The implementation of these measures will take into account the principles contained in the constitution in relation to land expropriation. We will replace the principle of ‘wiling buyer, wiling seller’ which has not sufficiently addressed the problem, with the ‘just and equitable’ principle when expropriating land for land reform purposes. In addition to what government has already done to implement land restitution programmes; our government will re-open the lodgement for claims and provide for the exception to the 1913 cut-off date to accommodate

**“Land was taken away from the African people in order to turn them into a cheap reservoir of labour. Overnight, people who had land and cattle suddenly had nothing, and lost their self-reliance, dignity and independence. This historical injustice must be addressed in order to complete our freedom.”**

historical landmarks, heritage sites and descendants of the Khoi and San who lost their land long before 1913. The amendment to our laws will take effect this year. There will be special programmes to remember the injustices perpetrated under the 1913 Land Act. We appeal for cooperation between those needing land and those who need to release land, both assisted by government, so that we can meet the targets we have set for distribution and restitution."<sup>5</sup>

The struggle to give back stolen land must be intensified and victory must be made certain. The government, NGOs, political parties and society as a whole must work together to achieve the objectives articulated in the freedom charter.

### Conclusion

This centenary must help to spur everyone to ensure that the next century is truly a non-racial, non-sexist, united, democratic and prosperous South Africa. The task is to redouble all efforts to reverse the legacy of this notorious piece of legislation as a matter of urgency. The ANC made this point abundantly clear in its 2013 January 8 statement, "we meet 100 years since the promulgation of the 1913 Land Act, which dramatically robbed the indigenous people of our country 87 percent of their land, and turned them into pariahs and wanderers in the land of their birth." A non-racial South Africa must be able to fully undo the damage done by the notorious 1913 Land Act through its land restitution and redistribution policies and programmes. That work is not done until the landless have land, the homeless have homes, the destitute have shelter and land-hunger is banished forever. That is the work that must be done. The centenary of the Land Act has added the necessary urgency to that work. ■

### References

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- <sup>2</sup> ANC, 2007. "Strategy and Tactics", as amended and adopted at the 52nd National Conference in Polokwane, 2007, p.3
- <sup>3</sup> Walshe, P. *The rise of African Nationalism in South Africa*, London, 1970, p. 44
- <sup>4</sup> ANC, 1955. *Freedom Charter*, adopted at the Congress of the People in Kliptown, June 1955
- <sup>5</sup> ANC 2013. January 8 Statement of the National Executive Committee

# SKA SA: Delivering for South Africa

Photo by Jaco Marais

Dr Bernie Fanaroff, SKA SA Project Director:

*“The SKA is not an answer, but rather a catalyst for development. It is an opportunity for the whole country to contribute to putting us on a developmental path. Eventually what will count is what the country makes of this iconic project. It is a wonderful opportunity.”*

Derek Hanekom, Minister of Science and Technology:

*“Hosting the bulk of the SKA places Africa at the centre of one of the largest scientific projects of our time. It places our country and our continent on a very exciting and challenging platform for scientific and economic development.”*



For more information, visit [www.ska.ac.za](http://www.ska.ac.za)

By 2024, approximately 3 000 SKA dishes will be spread across South Africa and its eight African partner countries, with about 2 000 of these at the core site in the Karoo.

South Africa's MeerKAT project and successful SKA bid have led to a surge of interest from top scientists and students from around the globe who now want to work and study here.

MeerKAT will be the first 25% of phase one of the SKA. Scientists will use it to survey the universe and its constituents to understand the laws of nature that govern their evolution – all topics that are in line with the science goals of the SKA.

## Project milestones and achievements to date

- Successful bid to host the SKA
  - All 3 000 dishes of the iconic Square Kilometre Array coming to South Africa, with outstations in eight African partner countries
  - Our scientists, engineers and industries are playing a key role in the SKA design, construction and operation
- Establishment of a scientific facility in the Karoo
  - KAT-7, a seven-dish telescope prototype, already delivering its first science images
  - Power, optic fibre, civil and road infrastructure to support the SKA project
  - MeerKAT under construction using local skills and industry – the first of its 64 dishes complete by end 2013
- New skills for new jobs: Science, Engineering and Technology
  - Five research chairs at local universities attracting top scientists and students from around the globe
  - 425 bursaries awarded, from technician to post-doctoral level
  - Active youth-into-science outreach programmes
  - Teams of young engineers delivering innovative new technologies with global impact
  - Skills and knowledge transfer to local industries
- International partnerships
  - Expanding international collaboration, facilitated via platforms such as the Africa-Europe Radio Astronomy Platform (AERAP)

## DID YOU KNOW?

- Radio astronomers were responsible for the invention of the wireless network.
- GPS (geographical positioning system) depends on Einstein's Theory of Relativity, and measurements by radio telescopes, to work.

An artist's impression of the 64-dish MeerKAT telescope currently under construction near Carnarvon in the Karoo.



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Foundation





# The restoration of executive humanity

Harvard research suggests that structured mindfulness programmes are linked to positive emotions, optimism, high energy, physical and emotional health and better work performance. Hostilities, impulsiveness, overt aggression and violence become contained and convert to mindful responsibility. This could have saved Oscar Pistorius.

By Brenda Kali

Does anyone groom high achievers for the management of the sludge that goes with fame and fortune? Research by the Centre of Executive Renewal (CERSA) suggests that this is not part of the package. Win or else is the payoff line. When heroes fall from grace the icon worshippers of the world feel betrayed. 'Winning isn't everything; it is the only thing' is attributed to UCLA Bruins football coach, Henry 'Red' Sanders as he summed up not only the ethos of the sports world, but that of the corporate arena. It unveils the

nebulous expectations of spectators of great achievers or their human drivers, coaches, thereby moulding personalities that are less than great. Beneath it lurks the dark hidden mantra of macabre supporter tolerance: 'Thou shalt not be caught out and if you fail - cover your butt.'

### The world awakens

1964 saw the death of Kitty Genovese in New York. 38 citizens of Queens looked on, despite her screams as she was brutally stabbed, raped and killed. The thug had

attacked, departed, and then returned to end her young life. Her death commanded a paragraph in the New York press. *Post ipso facto* it generated a number of psychological studies into why law abiding community members do nothing. It became known in social science circles as the Genovese Syndrome or the 'crime of the bystander.'

### Lance Armstrong

This Machiavellian world turned tail when golden boy Lance Armstrong was exposed for substance abuse, people abuse and donor money abuse - the full Monty - all in the interests of winning, of course. His murky underworld revealed a history of manipulation, intimidation and a culture of looking the other way. Personal discomfort, we discover, was buried in the cognitive dissonance of hero worship versus ethics. The hero won out. Surrounded by coaches, a peloton, media commentators, advisors, sponsors, family and friends, no one it seems deemed this Adonis worthy of grooming for management of the fickle mistress - celebrity status. Stress management, values and character building were not at the negotiation table.

### Oscar Pistorius

Valentine's Day saw the death of model Reeva Steenkamp at the hand of sporting legend Oscar Pistorius. The jury is out whether it is a crime or a tragic error but the jury is in about possible excessive use of force and impulsive behaviour. Excesses are part of this road less travelled, it appears, and history tells its sordid tale. Oscar had a hissy fit at the Paralympics because he believed a competitor had blades a trifle too long. This he suggested gave competitor Alan Oliveira an unfair competitive advantage. An apology followed only *after* the world took umbrage supporting the notion of behaviour not befitting a hero. But on this golden journey, where were the pushy coaches to identify the concomitant need for character development and personality grooming? The development of emotional intelligence, resilience and mental toughness was not in this equation. The story does not begin

and end there. History is filled with examples of fawning, passive audiences which just did nothing. Who knows, if they did, they may have changed the world - positively. Tiger Woods' errant lifestyle could not have been privileged private knowledge. He too fell from grace only because of his cardinal error - getting found out.

### The art of saying sorry

People are forgiving when bad behaviour is fronted with good. Sometimes deception provides its own creature comforts so it tolerated, in the interests of the greater good no doubt. Giving to noteworthy charities and lending a name to meaningful projects becomes an essential exercise. And will the charities complain? Unlikely! The legal system tenet that people may not benefit from ill-gotten gains is quietly ignored. If all else fails there is the confessional for errant paedophile priests when they bring the Catholic Church into disrepute. The internal machinery of the Vatican can quietly redeploy its mistakes - and it has. It has also succeeded in getting away from prying ears and eyes in its own discrete 'court hearings' and inner legal system. In 1988 evangelist Jimmy Swaggart was exposed for his adulterous adventures with prostitutes but he had been tutored in the art of saying sorry. Media reports of this leopard not changing his erotic ministry spots did nothing to quell the ardour of his followers. He was caught again! His preaching continues to earn record sales through multi-media projects. The phoenix rose from his ashes. His exposure was the result of the revenge attack of fellow evangelists Marvin Gorman and Jim Bakker, also fallen angels, as they jockeyed for prime positions on the silver screen. Whose responsibility was it to groom him from the fallout of earning an easy \$500 000 a day from salvation seeking donors? Nobody's, it seems.

We are groomed from infancy to respect authority figures and revere high achievers. The 1960 Campus Revolt at Berkeley University started a groundswell attack on the shallowness of consumer societies and a critique of modern capitalism. This included Jurgen Habermas, Herbert Marcuse, Erich Fromm and Noam Chomsky.

This ethos and age of critical thinking which exposed abuse of power became eclipsed by the birth of super capitalism chaperoned by a lack of personal morality, making uneasy bedfellows. Nobody cared about what was happening between the sheets. Perhaps Monica Lewinsky cared because history suggests she saw gain from the tell-all stained garment she kept closeted for a rainy day. Bill Clinton, alas, forgot to say sorry, an act which might have aborted the humiliating Grand Jury hearing.

The golden age of capitalism was accompanied by the romance of so called calculated risk taking in futures trading. The chase of the almighty dollar and not the dollar itself, became the Holy Grail. The global fiscal crisis which was the result and the now dying throes of the EU's grand plan tell its own sorry tale. Were the protected leaders of Goldman Sachs and Lehman Bros forced to pay prices of atonement to suffering communities and countries? Frankly, my dear, they did not give a damn, and neither did the authorities and Congress that protected them.

These global incidents lent gravitas to the Mohammed Ali Syndrome of invincibility. Invincibility seems to be the quality that needs revisiting in the corporate and sports world of today. Without mindfulness of the pay dirt of ruthless ambition, no executive renewal can take place. How much money is really enough?

The Second World War saw the Holocaust and millions killed in pursuit of racial and genetic cleansing. Ordinary people were behind those statistics - they did nothing. The Holocaust was not inevitable. Was it a conscious or unconscious choice, not to act? James Baldwin is more succinct. "A civilisation is not destroyed by wicked people; it is not necessary that people be wicked, but only that they be spineless." Back in our own backyard the years of Apartheid ensured that atrocities were committed against people of colour or 'other' persuasions. A protected white population largely did nothing.

Greek mythology alerted the literary world to a deadly sin, that of hubris or wanton insolence, pride, passion or arrogance. This applied especially to those in leadership. The crime of

hubris is seen to derive from avarice, selfishness and lack of true remorse and humility. Taking responsibility for one's deeds was *de rigueur* - well at least on mythological paper. Harvard University professor Michael Watson opines that "no crisis happens without many flags or warnings. Crises happen because we ignore the flags - that is gross irresponsibility and poor governance."

### Mindfulness and positive psychology

Today schools of mindfulness and positive psychology are opening around the world. Brenda Kali, author of *Corporate Sludge* and co-founder of the South African school of positive psychology, the Centre for Executive Renewal, believes that 'judicious pursuit of capitalism should be supported by introspection and good habits such as the cultivation of equilibrium and the embrace of change. Every board member is responsible for helping colleagues build emotional resilience, personal values, integrity and sources of inner strength to deal with the heady world of financial and personal success.' Harvard research suggests that structured mindfulness programmes are linked to positive emotions, optimism, high energy, physical and emotional health and better work performance. Hostilities, impulsiveness, overt aggression and violence become contained and convert to mindful responsibility. This could have saved Oscar Pistorius. The art of Executive Reflection is also linked to lower cardio-vascular incidents such as stroke and heart attacks. There are no innocent bystanders. Learning to use the technique of 'mindful silence' paradoxically helps to engage actively with the business world for more value based decision making. Jagdish Parikh, head of the World Business Academy in the USA has the final word: 'You can make a life while earning a decent living'. Mental toughness, money and ambition are not dirty words, but they must be yoked to wisdom to weather the ups and downs of executive life. ■

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## DEMONSTRATIONS ON 21 MARCH 1960

# A view from the Western Cape



After the police responded to those peaceful demonstrators by firing at them with live ammunition the political situation in the country could never be the same again.

By Thando Ntlemenza

With the signing of the Treaty of Vereeniging on 13 May 1902, South Africa witnessed a new era of cooperation between the English and Afrikaner people. This cooperation resulted in the joining of Afrikaner states of *Oranje Vrij Staat* and *Zuid Afrikaansche Republiek* into Cape Colony and Natal to form the Union of South Africa - an arrangement which entrenched the exclusion, oppression and suppression of the black majority

in South Africa, thus laying a concrete foundation for Grand Apartheid.<sup>1</sup>

Since the formation of the Union of South Africa, the oppressed majority engaged in various activities to show their resistance. It is within this context that the ANC was formed. In particular, the ANC was formed to unite the African majority in the fight for their freedom and liberation from systematic exclusion and oppression, and later it evolved into a mass movement that fought for freedom and liberation of all

the people.

While active participation in the liberation struggle started as an exclusive terrain of the leaders, who petitioned colonial masters on the grievances of the oppressed majority, the Defiance Campaign changed that method of the struggle forever, thus ending an era of deputations, and created space for ordinary masses to be practically involved in the struggle.<sup>2</sup> In other words, it:

*...unleashed the pent-up energy of the people..., inspired them... [and] inculcated the idea and spirit of sacrifice of personal interest for the public good.*<sup>3</sup>

Hence, the oppressed people were prepared to demonstrate their fearlessness of any response deemed appropriate by the apartheid authorities. The mass demonstrations against the apartheid regime were always peaceful but the apartheid regime resorted to force and violence.

### Whose idea was it?

Following the adoption of the Freedom Charter by the ANC and its allies the South African Indian Congress, South African Coloured People's Organisation and the Congress of Democrats, some members broke away from the ANC and formed the Pan Africanist Congress (PAC). The PAC disapproved of the Freedom Charter and planned its own anti-pass campaign for March 21, 1960. But, as Allistair Boddy-Evans points out:

*The ANC planned a campaign of demonstration against the pass laws to start at the beginning of April 1960. However, the PAC rushed ahead and announced a similar demonstration, to start ten days earlier, thereby effectively hijacking the ANC campaign.*<sup>4</sup>

Some have described the decision of the PAC to announce the demonstration as nothing more or less than *to kindle life into its own political activities by upstaging the events as organised by the ANC.*<sup>5</sup>

While various interpretations have been made regarding who actually conceptualised the idea of the march to the police stations, the events that occurred on that day and their impact on the psyche of the agents of apartheid and the oppressed people can never be

doubted. After the police responded to those peaceful demonstrators by firing at them with live ammunition the political situation in the country could never be the same again. Events of that day would change the course of liberation struggle forever. But, why did the oppressed masses in black townships decide to march to police stations in the first place?

### **Pass laws and the economic situation**

On March 21, 1960; masses of the oppressed people in South Africa took their struggle to the police stations in various parts of the country to demonstrate their growing resentment to the pass system – a system with origins in 1760 at the Cape Colony where it was introduced in order to regulate the movement of slaves between urban and rural areas.<sup>6</sup>

A factor that is of particular historical and political significance in relation to these demonstrations is that in 1960 the apartheid regime had decided to extend the application of the pass laws to African women. This created fears in black communities that these women might be subjected to manhandling by the police which would expose them to further loss of dignity.

While the system of pass laws is generally understood to have been the main cause for the oppressed black majority to take their struggle to the police stations and other offices of the apartheid state, the desperate economic situation of the oppressed majority which was exacerbated by pass laws cannot be overlooked. Wages for black workers in firms and factories were low and trade unions were not recognised for the purpose of bargaining with employers. The majority of the people in black townships such as Sharpeville and Langa were living below the poverty datum line.

### **Sharpeville – where it all started!**

The morning of 21 March 1960, saw demonstrators organised by the PAC, marching peacefully through the streets of Sharpeville to the police station. They had decided to embark on peaceful demonstrations because they were totally opposed to the

system of pass laws which reduced them to foreigners in the land of their birth and caused great socio-economic hardship for people both in urban and rural areas.

When demonstrators reached the Sharpeville police station, chanting freedom songs and campaign slogans such as “phantsi ngamapasi” (down with passes), members of the South African Police were lined up armed with sub-machines and rifles. At the same time, many British made armoured personnel carriers and jets of the South African Air Force were flying overhead<sup>7</sup> in anticipation of violent response from the demonstrators.

While the demonstrators were singing freedom songs and chanting slogans, without warning the apartheid security forces opened fire.

From documented evidence, it appears that apartheid security forces killed 69 people and injured about 180. Some historical sources show that many demonstrators were shot in the back, clearly indicating that these peaceful demonstrators were shot by the apartheid security forces when they were running away from the police, looking for cover.

### **What happened elsewhere on that day?**

While the main demonstration occurred in Sharpeville, there were activities in other parts of the country which were also met with police brutality. Among these areas was Langa in the Western Cape. Demonstrations in Langa, initiated by the PAC were meant to be peaceful. In the early morning, a crowd of 5-10 000 people gathered at the assembly point in Langa with a view to marching from there to Langa police station. When demonstrators heard that the police would deliberately interpret their march as an attack, they called off the march on the understanding that they would reconvene at a later stage.

Before demonstrators reconvened and upon hearing reports about killing of demonstrators in Sharpeville, the police started patrolling the streets of Langa township<sup>8</sup> with a view to maintaining order in Langa through the forceful suppression of demonstrations.

Later on the day, demonstrators

reconvened as earlier agreed. At that point, the police arrived in force on Saracens with heavy weapons and ordered demonstrators to disperse “within three minutes.” However, this call was ignored by demonstrators; hence the police started beating demonstrators with batons and fired at them with live ammunition<sup>9</sup> clearly showing the attitude and mood of the apartheid regime at that time.

Media reports indicated that Langa township was very tense on the evening of March 21 as angry demonstrators barricaded streets. At the end of that day, three peaceful demonstrators were reported to have been killed and various other people were injured. Those who were reported to have been killed were Cornwell Tshuma, Leonard Mncube and C Makiwane.

However, more people were rumoured to have been killed in Langa as some disappeared on that day without any trace. In fact, there are reports to the effect that more people were shot by the policemen and soldiers driving in Saracen armoured vehicles as they fled from Langa township into the bushes near Vanguard Drive. Some reporters spoke of the “mass graves” on a farm in Bonteheuwel – an area which borders Langa. Others referred to bodies that were buried in Bonteheuwel which were later exhumed and reburied at Ndabeni. A reporter who covered Langa area on the day of demonstrations reported that he saw “at least twelve people who appeared to be dead”, pointing to the possibility of more demonstrators having been killed on the day than the reported three.<sup>10</sup>

### **Political developments in the Western Cape after the Langa killings**

Following the shooting and killing of peaceful demonstrators in Langa township, African and coloured people were mobilised into mass action against the pass laws with a view to communicating a message to the apartheid regime that there was no turning back on the boycott of passes.

On 24 March 1960 about 30 000 people marched without their passes to the police headquarters in Caledon Square in Cape Town city centre and

offered themselves for arrest for not carrying their passes. Thousands of people were mobilised throughout the Cape Peninsula into an action against pass laws to mourn the death of those killed in Sharpeville and Langa. While this was a call for the abolition of apartheid pass laws, it was also a call for higher minimum wages for African workers who were earning low wages.

Events that erupted in the Cape Peninsula threatened the apartheid regime and as a result apartheid security forces were deployed in the black townships. At this point, these townships were under siege for several weeks and people were subjected to police brutality during this period. Many leaders of the oppressed were arrested and detained.

People in African and coloured townships throughout the province defied the security forces and apartheid brutality. In fact, they remained resolute. On March 30, about 100 000 people streamed into the city centre and converged at the Caledon Square to mark their opposition to the discriminatory apartheid laws and detention of their leaders. The impact of the anti-pass activities was felt in rural towns such as Hermanus, Paarl, Stellenbosch, Somerset West and Worcester. However, anti-pass demonstrations in these towns were dispersed by the apartheid police with batons and tear gas.<sup>11</sup>

With anti-pass protests in townships and rural towns of the Western Cape, the oppressed people were communicating a clear message that they were determined to make the Western Cape ungovernable and apartheid unworkable long before a call to do that was made by exiled Oliver Tambo, the leader of the banned ANC, twenty years later.

### State of emergency and the banning of the liberation movements

Deployment of the apartheid security forces in various black townships in the Western Cape culminated in the declaration of a state of emergency and enactment of the Unlawful Organisations Act, 1960. All black townships were on fire as fierce fights ensued between security forces and the oppressed people. With the

Unlawful Organisations Act in place, political organisations such as the ANC and PAC were banned. Gatherings were banned, a curfew was imposed and press censorship was introduced. Many leaders of the oppressed people were arrested and detained in terms of emergency regulations. Some of the leaders went into exile.

In subsequent years, various communities of the oppressed people throughout the country have organised commemorations to remember the events of March 21, 1960. However, many of these peaceful commemorative events were met with police brutality. For instance, on March 21, 1985

*Fourteen people were shot dead and many were wounded when police opened fire ... on a crowd of more than 3000 in Langa township near Uitenhage ... Police opened fire with semi-automatic rifles and shotguns.*<sup>12</sup>

### Political significance of demonstrations and killing of demonstrators

The merciless killing of the people in Sharpeville and other places marked a watershed moment in the history of South Africa. In his autobiography, *A Long Walk to Freedom*, Nelson Mandela stated that “the massacre at Sharpeville created a new situation in the country”. This massacre marked a break with the epoch of peaceful demonstrations, which had its origins in Mahatma Gandhi’s *Satyagraha* campaign. In describing events of that day, the South African Deputy President, Kgalema Motlanthe, once stated that the “Sharpeville and Langa massacres were a tipping point in that they served to trigger off deep revulsion and disgust both locally and internationally against the apartheid government.”<sup>13</sup>

The killing of peaceful demonstrators showed that the apartheid regime did not respect the sanctity of human life. With these killings, it became clear that there was no room for peaceful struggle in the apartheid society – a situation that forced the oppressed majority to conclude that apartheid brutality could not be ended without armed resistance.

Having experienced apartheid

brutality, the oppressed majority believed that it was no longer necessary to continue talking the language of non-violence with the regime whose reply would be violent attacks on unarmed and defenceless people. Hence, their leaders started exploring the possibility of engaging on the armed struggle – something that culminated in the emergence of *Umkhonto we Sizwe* – a disciplined guerilla army that would defend the oppressed people against apartheid brutality.

### Conclusion

Demonstrations and the killing of innocent people in Sharpeville, Langa and other places should never be forgotten as they symbolise the historic interventions of the people in advancing the struggle against the discrimination and oppression meted against them, especially the system of pass laws. These are some of people’s interventions which made an indelible mark in South African history; hence they must forever be remembered and celebrated by current and future generations.

For future generations to know and understand contributions and sacrifices made by those heroes and heroines who defied apartheid laws on 21 March 1960 the correct history should be told. This must be done with a view to helping all the people to understand that when those brave women and men embarked on demonstrations against pass laws they did not do that for self-interest, but to advance the struggle for the liberation of the oppressed majority.<sup>15</sup> ■

### References

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- <sup>4</sup> Alistair Boddy-Evans, Ibid
- <sup>5</sup> *ANC Today*, 26 March – 1 April 2010
- <sup>6</sup> The Rt. Reverend Ambrose Reeves “The Sharpeville Massacre – A watershed in South Africa”, a paper published by Unit on Apartheid to promote the commemoration March 21 as the International Day for the Elimination of Racial Discrimination
- <sup>7</sup> Alistair Boddy-Evans, Ibid
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- <sup>9</sup> Ibid
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- <sup>12</sup> *Argus*, 21 March 1985; Johan Olivier “The South African Police: Managers of conflict or party to the conflict” Seminar No.1, 1991
- <sup>13</sup> Address by Deputy President Kgalema Motlanthe at the Human Rights Day Celebration, 21 March 2010
- <sup>14</sup> *Mkhonto we Sizwe* emerged on 16 December 1961
- <sup>15</sup> Kgalema Motlanthe, Ibid

# Mats, it's just politics!!

By Mats Svensson

We used to meet at Borderline Restaurant, myself and three young, well-educated men (always men) from "The Bank." We were discussing the recent World Bank meeting in Al Ram. President Arafat had just died in Paris. The meeting in Al Ram, therefore, had an unusually high attendance. More than 100 diplomats had gathered in the cramped room. The circumstances surrounding Arafat's death remained a bit strange with many question marks. Had he died of natural causes or had he been murdered? The political scene had changed with his passing. Everything was suddenly different.

Also the mood between diplomats had been affected by his death. Now there was great concern for the upcoming elections. Together with the Palestinian Authority, both presidential and parliamentary elections were being planned. Finally, democracy.

The starting point was that all Palestinian political parties would participate in order to ensure democratic elections. The U.S. president had waved with his whole hand. Ensure democracy. There were also concerns that Hamas would come to influence future policy. However, most people were quite sure that Hamas would not win and that their influence would be able to be limited. Hamas would be allowed to participate in the elections but be marginalised as much as possible.

To ensure the marginalisation of Hamas, the World Bank presented a proposal during the meeting regarding comprehensive budget support to the Palestinian Authority. The aid would be targeting the poor. During the meeting it became clear that this request had come partly from the Palestinian

Authority with Fatah in the lead but that it was submitted on behalf of the U.S. administration.

Many of us slightly raised our eyebrows. Budget support to the Palestinian Authority!

The Bush administration's task to the World Bank read, "Try to get Europe to pay." The U.S. Congress would never agree to directly fund the Palestinian Authority.

During the meeting we received a thick, voluminous document. The pages were full of statistics, tables and evidence. We could read about the rapidly growing poverty on the Palestinian countryside, increasing food prices, transportation costs and unemployment, expensive water, expensive electricity - as well as about the growing feeling of being trapped behind high walls.

The World Bank also said that it was possible to say that the Palestinian Authority was "on track" to receive these external resources. Just before Arafat's death, it had been "off track." Many of us around the table again raised an eyebrow. Even this had changed. "On track!" The Bank's message was that there was no longer a reason to oppose a potential budget support to the Palestinian Authority.

At Borderline Restaurant, I now asked the World Bank's young men, "On track? What is it that is on track? What has happened since the previous meeting, the meeting that was held before Arafat died?" Back then, the criticism had been harsh. Extensive reforms were needed. Back then, it felt as if Palestine lay in darkness. Back then, they had talked about corruption, abuse of power and a non-existent management.

I tried to tell the Harvard educated World Bank economists that it was true that Arafat before his death managed to remove the brown envelopes. Wages had begun to be paid via bank accounts. But change had been minimal. The big change was that Arafat had died, the rest did not show any positive trends. Palestine was still off track.

The young well-educated men in their dark suits all looked at me with a strange look. Waited me out for a moment and then asked if I had not understood what it is all about. "Do you not understand, Mats, that what we are writing is a political document? It is all politics. We can prove anything. In Palestine, there are no reliable statistics to lean on. Move the numbers a few tenths up and another half percent down and everything changes. Our latest task," said the men in blue, "has been to pick out a political base that can demonstrate that it is safe to provide budgetary support to the Palestinian Authority before the next presidential and parliamentary elections. Prove that we are on track. With statistics, we can prove anything. No one can refute us. Very few move beyond the wide roads."

"We all know that Hamas is growing and that Fatah needs our help," they continued. "Mats, this is not about supporting the rural people of Palestine but to combat what has been defined as evil."

At Borderline Restaurant sit three young men from the World Bank and lecture a notoriously naive Swede. A Swede who so badly wanted to believe that what was said was true. A Swede who recently believed that a thick, well-written World Bank document was based on truth, still hoping that Muhammed Rashid's story and the reality behind the wall in Abu Dis would mean something.

Borderline, if one could tell its story, would tell you that the reality is something other than statistics and tables. Approximately where we sat there was formerly a gate that constituted the crossing from west to east Jerusalem. Recently one became humiliated at this place that was called Mandelbaum Gate. ■



# Death sentence passed on the capitalist system

Elements of new relations germinating in the old system are unavoidably limited in character and are, moreover, like a transplant, continuously forced to resist rejection by the inimical social organism.

By Jerry Semudi

**T**he capitalist system still has a fairly strong constitution and ample vitality. Why, then, should it not still survive for a long time, to the delight of its supporters and to the chagrin of its foes? The answer is simple: this is impossible, because its organism is afflicted with a deep-rooted disease. The general crisis of capitalism diagnosed by Lenin is at its height and is growing more profound with each successive decade of history.

Here is why: in terms of formal logic, crisis connotes some specific, more or less protracted, shake-up of the system. But it is limited in time, a decline followed by either recovery or death. Such a shake-up cannot be permanent. If it were, the word 'crisis' would be meaningless.

All this applies to cyclical crises. The facts have given rise to a different use of the term 'crisis'. It describes

the general process of decline of the capitalist system, which is not at all called into question by the fact that at different periods capitalism may, by virtue of the scientific-technical revolution or some skilful manoeuvre, some social concessions, or divisions among opponents, win a round or two and so prolong its life.

Bourgeois theorists admit a new wave of crisis developments in capitalism's political economy and ideology. Various factors have reaffirmed the fact that all the main elements of capitalism's general crisis are continuing to proliferate and that accumulation of the 'critical mass' is not far distant. It is not my purpose to describe the sharpening contradictions in modern bourgeois society, but let me examine only the basic aspects and draw a few conclusions concerning the outlook for capitalism.

## Economic Growth

Despite the scientific-technical revolution and the general growth of consumption which enables the system to avoid overly destructive economic turmoil, recent years are marked by chronic production cutbacks; some industries and even some countries have seen no growth at all, with production running even under capacity. The myth of constant economic growth is so deep-rooted that people are reluctant to assume the alternative of regression facing capitalist countries.

There are concrete examples of gradual economic decline. Alarming symptoms are now seen in South Africa. At first their presence makes itself felt through a drop in investments and a lapse of technical progress, coupled with difficulties in providing jobs for the work force. This is followed by a recession of the old industries and by unremitting stagflation. On the heels of this phase, which the South African economy has already entered, there are signs of decline: deterioration in social security, an expansion of relative impoverishment, a drop in industrial production, and so on.

Though matters may not reach the point of regression, the next several years hold no promise of a new long period of economic prosperity. The most probable outlook, and this in the view of many experts, is a continuing but insignificant growth with periodical 'private' crises in individual fields of the capitalist economy.

## Unemployment

Starting from the late nineties mass unemployment has spread to all the main social groups, i.e. industrial workers, technicians, engineers, researchers, office employees, and so on. The rising generation is the one that suffers the most. Unemployment will remain, providing a reserve labour force for the capitalist. The capitalist system is unable to resolve this most vital of social problems.

## Inflation

Many prominent economists and statesmen agree that inflation is now becoming the most acute problem of

the modern capitalist economy. The galloping inflation of today has a sharply negative effect on the reproduction process in practically all capitalist countries. Small wonder, therefore, that their leaders keep convening conferences and conventions twice or thrice a year to work out counter-inflationary measures.

Bourgeois economists have a variety of definitions for inflation. Some consider the attendant monetary spasms to be symptoms and effects of causes rooted far outside the monetary sphere and afflicting not only the economic but also the social-political structure of capitalist society and the social psychology of its members. Others, belonging to the so-called monetarist school, regard inflation as a purely monetary phenomenon and are seeking an econometric remedy for it.

Supporters of both trends maintain that if the leaders of the capitalist world abided by their recommendations and advice, inflation would at least be curbed. So far, the financial system is, indeed, being kept from falling apart chiefly by shifting the burden of inflation on to the wage earners. But this is no more than a palliative that cannot halt inflation and can only win a little time. The next capitalist general crisis will almost certainly take it over the edge of monetary stability and into hyperinflation.

### **Inequality**

One of the main achievements of capitalism that gave credence to the tale of affluence is the distinct rise in the living standards of people in the more developed capitalist states. Giving this the widest possible publicity, the advertisers of capitalism ignore facts that ought not to be ignored.

First, the wage increases result from the workers' struggles and are certainly no gift from the monopolies. Second, increases are a necessary element of the set of measures whereby the capitalist economy is made 'sounder' by expansion of consumer demand and the market. They are not, therefore, a virtue of the system or a policy of the ruling class.

Third, most of the improvements in the workers' lives are, in effect, a compensation for the unprecedentedly

great physiological intensification of labour exploitation. Fourth, the higher living standards are traceable to the revolutionary innovations in science and technology which, combined with developed industry, allow for the mass production of consumer goods.

Leaving aside all comment, I am moved to ask: is not the fact more important than its causes? Yes, one could only have welcomed the higher standards of living in the capitalist world if they had not been accompanied with greater class inequality. A general increase in incomes, even in the richest of societies, can alter nothing if the tendency towards class inequality remains, and becomes more intensive.

Capitalist-style urbanisation is another source of social inequality. There are still people living with no running water, no electricity, and no

**“The inequality problem has two sides to it; one side is related to the affairs in the individual capitalist countries and the other to the capitalist world system as a whole.”**

proper sanitation. And all this is found in urban areas, mainly in poor quarters, and worse among the rural poor. The inequality is also visible between urban and rural.

The trade unions that had for years sought higher standards of living finally understood that wage increases alone were not enough. They are now working for a better quality of life, achievable only by making labour less intensive, working conditions more humane, working hours shorter, leisure hours longer and housing and transport more comfortable.

The inequality problem has two sides to it; one side is related to the affairs in the individual capitalist countries and the other to the capitalist world system as a whole. The gap between developed and former colonial countries continues to widen, as does the income gap. Capitalism which has for centuries

plundered and still continues to exploit the former colonies and semi-colonies has never set itself the aim of satisfying the needs of the people. It makes goods in order to make profit. There must be a monstrous lack of scruples in a system in which a doctor wants people to be sick more often and a lawyer rubs his hands over the spread of crime, in which all commodities, including drugs and pornography, are considered a more or less lawful source of profit, a system in which over-exuberant advertising knows no limits and the consumer is saddled with goods he does not need.

It will also be recalled that Lenin described workers' consumer cooperatives as a 'fragment of socialism'. 'The dialectical process of development,' he wrote, 'really does intrude elements of the new society, elements both material and spiritual, even under capitalism. But revolutionaries should be able to distinguish the part from the whole; they should demand the whole in their slogans, and not the part.'

In other words, elements of new relations germinating in the old system are unavoidably limited in character and are, moreover, like a transplant, continuously forced to resist rejection by the inimical social organism.

Lastly, the fact that elements of socialist relations can penetrate the capitalist environment does not mean that there is anything in the concept of a gradual conversion of capitalism into socialism through the removal and replacement of certain details. The new system cannot come into being without a radical alteration in the nature of power, the foundation of society - the property relations - and the mechanism of government. There is no conceivable remedy in the framework of the present system. The inexorable pressure of the facts is demanding the invention of another system. That is to say that capitalism is hanging on by the skin of its teeth.

The decline of capitalism or its disintegration is obvious. But before sizing up the outlook of this tendency we must examine still another factor of ultimate importance, the state of international relations within the capitalist system. ■



# Active Citizenship

We can continue to criticise and take a back seat approach, but as active citizens we need to realise that the responsibility of serving the country does not rest with politicians alone.

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By Mohamed Suliman

Active Citizenship can be defined as playing a proactive role in your roles and responsibilities towards your society and environment because you are a stakeholder. Although there is no universally accepted definition of Active Citizenship, there is general consensus that it refers to citizens who become actively involved in their communities. This could be as an advocate for a particular cause or issue, either as a proponent or opponent by engaging with issues rather than merely observing and commenting on them.

The success of a democracy depends on informed citizen participation. Citizen engagement strengthens democracy by bringing diverse views and perspectives through consultative and decision-making processes. This is vital for governments to be in touch with their people and to foster a culture of transparency and accountability. The planning, management and implementation of projects and campaigns by the government can also benefit from the active involvement of citizens through consultative and co-operative processes.

Public discourse in South Africa is often focused on criticising the shortcomings of our politicians and leaders, and unfortunately active citizenship in most cases is carried out in opposition to the government. This can be attributed to our history where for decades South Africans had to work against an apartheid system that undermined the basic rights and well being of citizens. We can continue to criticise and take a back seat approach, but as active citizens we need to realise that the responsibility of serving the country does not rest with politicians alone. In a speech delivered by Trevor Manuel in October 2012 at the Ahmed Kathrada Foundation's annual conference in Johannesburg he said:

*"There is a particular weakness in the discourse across South Africa, we are immensely happy to discuss policy or allocations of resources, and appear to lose interest in the vigilance required over implementation. As a consequence of all of these factors, the debates on leadership are frequently*

*misplaced and too often focus on leadership of party and state at the highest level, ignoring the reality that for leadership to succeed it has to be multifaceted and deeply layered."*

Citizens should be aware of the role that they can play as agents of their own development. In fact, the fundamental feature of an active citizenry is the fact that the common society can have a significant impact on the government's decisions and delivery of services.

High levels of poverty and unemployment, lack of access to technology, lack of information and lack of education and skills, are just some of the socio-economic challenges that limit access to information and citizen participation. The frustration

**“The pivotal role of community leaders in educating, informing and engaging citizens to help shape and strengthen our democracy cannot be overstated.”**

of being unable to access information easily leads to despondency, leaving citizens feeling that the government has failed to address the concerns and desires of its people, and that they have no influence in the decision-making processes of their government. Bearing these challenges in mind, it is imperative that active citizens understand how to voice their interests and act collectively within the forums and platforms provided for in legislation; and respect the rule of law and the rights and freedoms of others. The National Planning Commission (NPC) has been at the forefront of calling for strong leadership across society, and a mobilised, active and responsible citizenry.

Anti-apartheid activist and academic Mamphela Ramphele initiated the Citizen Movement for Social Change, which called for citizen participation in various spheres of

South African development to bring about positive change within society and the country's economy. Recently at the launch of her party political platform, Agang - meaning "Let's Build", she said:

*"We have not invested adequately in educating for democracy. Civic education, a cornerstone of all thriving democracies, is absent in our homes, schools, places of worship, work places and communities. Citizens must be given the opportunity to share in supportive conversations about the fears and insecurities that make them prisoners of the past. The most troubling example of our failure to shift our mindsets and take ownership of our country is that less than 10% of South Africans young and old self-identify as South Africans first."*

Civil society, together with the government, has an important role to play in encouraging and supporting young people to become active citizens, something which needs to be prioritised through the school curriculum. Getting our local ward councillors and community leaders to play strong community leadership roles is also critical. Government initiatives promoting active citizenry should focus on strengthening the NGO sector; collaboration among civil society organisations; social cohesion and community participation.

Making people realise their role as stakeholders in a democratic state is the first step towards active citizenship. For active citizenship to be realised, civic education on democracy and its principles is essential. The pivotal role of community leaders in educating, informing and engaging citizens to help shape and strengthen our democracy cannot be overstated. Better access to government information and initiatives will empower citizens to contribute to the development of our country, and hold the government to account for the quality of services it delivers. An engaged and active citizenry working together with the government, the private sector and civil society to address key challenges will ultimately enable us to build a South Africa we can all be proud of. ■

# Are Africans drifting back into servitude ?



The long frustrated wish of emancipated slaves was to first acquire education; after they had acquired education they could do the rest. In contrast, some of our people want to do the rest whilst relegating education to the background.

By Mabila Mathebula

It is recognised that empowerment is much in vogue at the present time. It is safe to say that the word empowerment is a weapon in our armoury to eliminate abject poverty and the knifing pain of human hunger, promoting the ideal egalitarian society.

One could say with confidence that with empowerment we could command peace, even though peace is more slippery than an oiled eel in a number of African states; we could also command goodwill and concord without chaos, confusion and ruin.

Empowerment efforts are more often than not paved with good intentions but the downside to empowerment is the gross ignorance on the part of the 'empoweree' (the one who is being turbo-charged with empowerment) about the benefits of the empowerment

process. This was aptly put by William Shakespeare in one of his powerful lines: “Ingratitude is monstrous”. What is empowerment’s worst enemy? I answer: The people who are being empowered. Would people who value national empowerment torch schools, libraries, trains as well as places of historical importance like Timbuktu in Mali? When the collective anger of the people works them up towards destroying national assets, then we are anything but empowered.

Any person who has laid his or her hands on Booker T. Washington’s autobiography titled: *Up from Slavery* written in 1900 as well as *Uncle Tom’s Cabin* by Harriet Beecher Stowe, written in 1852 (the book was an antecedent to the emancipation of slaves in America; it exposed the evil of slavery) would attest to the following two facts – firstly the whole slavery machinery was an acute crime and abomination against the human race. Secondly it is an undisputable fact that education is the greatest equaliser. Do people who burn libraries, trains and schools know that the future of any country depends on education as well as a sustainable transportation system and that their actions could lead them back into servitude as well as de-industrialisation?

It took an abolitionist like Abraham Lincoln to dismantle slavery with the view to opening floodgates for the slaves to be numerate and literate. Few people know that slavery was not only of an exercise of hobbling someone with the chains of hard labour, it was also an exercise of dehumanising people by prohibiting them from reading and writing (imagine that slaves could not even read the bible). Booker T. Washington captures this appropriately in his autobiography: “I had no schooling whatever while I was a slave; though I remember on several occasions I went as far as the schoolhouse door with one of my young mistresses to carry her books. The picture of several dozens of boys and girls in a schoolroom engaged in study made a deep impression upon me; and I had the feeling that to get into a schoolhouse and study in this way would be about the same as getting into paradise”.

The long frustrated wish of

emancipated slaves was to first acquire education; after they had acquired education they could do the rest. In contrast, some of our people want to do the rest whilst relegating education to the background. When we burn schools how will we achieve goal number two of the Millennium Developmental Goals? Is it possible to achieve universal primary education at the rate we are moving? According to the World Bank, education has been singled out as a goal of overpowering importance – educating children, particularly girls, has the greatest impact on eradicating poverty. Research has shown that an extra year of secondary schooling for girls could increase their future wages by 10 to 20%. It is interesting to note that the World Bank has placed education as its top priority for a period bordering on 51 years, and

“Would people who value national empowerment torch schools, libraries, trains as well as places of historical importance like Timbuktu in Mali?”

the bank is the largest external financier of education in the developing world.

It was an American teacher, Ms Bessie Taylor, who sounded the following warning in good faith: “If you don’t read, you can’t write, and if you can’t write, you can stop dreaming”. One may surmise that because slaves were not allowed to read and write their dreams were most likely not realisable. History records that wherever Abraham Lincoln went, he carried a book in his pocket; to him books were treated as sacrosanct.

This brings me to a Hindu saying that goes: “A wave grieves over its separation from the ocean; and yet when its grief subsides it realises that it is the ocean”. I hope that sanity will prevail and we will realise that we are part of humanity and whatever we do to strands of life we also do to ourselves. If we burn schools we are not destroying

property but we are mortgaging the future of our children; when irate passengers vent their anger on railway property is not the railways that are being damaged but we are destroying a sustainable transport system for future generations. England’s transport system is superb not because of her wealth but because of the behaviour of the citizens; it does not mean that they are problem-free. The difference between us and them is that we believe that violence solves problems and they believe that constructive engagement solves problems. In addition, they believe that government property belongs to the people and future generations. Whereas we believe that government property belongs to the government and not the people, and that government funds are infinite.

It is high time that Africans agreed that uncontrolled anger channelled at government property is an indication of horrible wounds crying out for healing. But there can be no cure without a correct diagnosis, following honest, even fearless investigations. One research question that could be asked is: “Why do irate protestors take out their anger on government property?”

Slaves were emancipated in America, but there isn’t a cure for self-servitude because there is no longer a slave owner; the slave is self-owned. The world is carefully watching us and we can no longer blame white people for our infernal actions. Jared Taylor in his book titled *Paved with Good Intentions* enhances this view. When black children drop out of school, the given explanation is that teachers are insensitive to their needs. When black people commit crime, oppression and poverty are cited as reasons for the crime. When black people are unemployed the normal reaction is that white businesses are prejudiced against them. The question is: When we burn trains and schools who should shoulder the blame?

In a society that is falling apart, where the centre can no longer hold, self-criticism could produce self-reformation. People should rise up and proclaim sanity among all South Africans: perhaps we could save this country! In the words of Allan Paton: “People arise! The world is dead!” ■

# SAB and NICRO tackling the challenges of drunk driving



Vincent Maphai, SAB Executive Director Corporate Affairs and Transformation (left) with Soraya Solomon, CEO of Nicro and Yasir Ahmed, Chief Director Transport Regulations Western Cape Department of Transport and Public Works

South African Breweries

**N**ICRO, the National Institute for Crime Prevention and the Reintegration of Offenders, has joined forces with the South African Breweries (SAB) to launch a unique alcohol and road offences initiative to tackle the challenges of drunk driving at a range of levels.

The alcohol and road offences initiative, to be piloted in and around Cape Town, has been designed to have a positive influence on reducing drunk driving and keeping South Africans safe on the road. This joint venture is also expected to dramatically reduce the workload and lessen the burden on the formal criminal justice system.

This is the first time that NICRO has joined forces with the corporate sector to tackle drunken driving by seeking ways to create awareness and educate people on the dangers of driving under the influence (DUI) of alcohol.

NICRO believes that prison is not the best option for DUI offenders, and that in some cases, sending an offender to prison simply exacerbates the problem. The SAB funded alcohol and road offences initiative allows suitable DUI offenders who have been found guilty, and sentenced, to avoid going to prison. Instead of going to prison, they participate in this special educational, therapeutic programme and carry out their sentences in the community. Although the consequences of the drunken driving offence will not involve going to prison, such offenders will have a criminal record.

In addition to incorporating a powerful educational and awareness component, this needs-driven intervention also manages risks and addresses the behaviours that caused the drunk driving offence in the first place.

"If we are to fight DUI in a meaningful way, we cannot simply punish those driving under the influence without addressing faulty thinking patterns and the behaviours which result because of this," said NICRO's CEO, Soraya Solomon. "Not only do offenders avoid going to trial, possible incarceration and a criminal record; they are afforded a remarkable opportunity to change cognitive

distortions (faulty thinking) and unacceptable behaviour, repair the damage they have caused and acquire fundamental life skills to avoid further problems with alcohol," Ms Solomon continued.

SAB's executive director of Corporate Affairs and Transformation, Dr Vincent Maphai, has confirmed the beer brewer's firm commitment to partnering with like-minded people in the public and private sector, as the most effective way of fighting alcohol abuse harm. Dr Maphai believes that there are valuable lessons to be learnt from collective efforts which have seen significant progress being made in reducing the high levels of HIV infection in South Africa.

"It was only after society in its entirety rallied together to address

**“This is the first time that NICRO has joined forces with the corporate sector to tackle drunken driving by seeking ways to create awareness and educate people on the dangers of driving under the influence (DUI) of alcohol.”**

this social disaster that real progress started being made. The same principle should apply to our fight against the scourge of alcohol abuse. Government, communities, business and the NGO community need to pool their resources. There is no social problem which was ever resolved by one sector of society on its own," said Dr Maphai.

This multi-faceted intervention, which highlights the legal implications of driving under the influence and how serious drunk driving charges are, also has the support of the National Prosecuting Authority. The programme's ability to clearly demonstrate how alcohol abuse affects one's life and negatively influences

decisions, and the extent to which it offers participants opportunities to avoid future problems with alcohol and conflict with the law, is very encouraging.

"Participation in this alcohol and road offences initiative allows the offender to discover the risks and consequences of alcohol abuse, uncover faulty thinking patterns and therefore change these cognitive distortions and subsequent behaviours," NICRO Deputy CEO and Research and Development Director, Celia Dawson commented. "The risk factors associated with driving under the influence are also effectively managed and reduced, and where possible, eliminated. Favourable attitudes, fresh insights and new crucial life-skills equip the offender to steer clear of further problems with alcohol abuse and run-ins with the law," she concluded.

Alcohol, the most commonly abused substance in South Africa, is closely associated with risky sexual behaviour and road accidents. Alcohol abuse also impacts negatively on the high levels of crime and violence in the country. Drunk driving, in particular, is one of the greatest threats to road safety in our country, with research indicating that at least 50% of people who die on the roads have a blood alcohol concentration above the legal limit.

NICRO and SAB are confident that this joint venture will soon make a noteworthy difference to the challenges of drunk driving and do much to promote road safety in South Africa. NICRO is eager to partner with the public and private sector to expand this initiative to other parts of the country, and would like to encourage other corporate concerns to follow SAB's lead by providing financial support for this unique initiative. ■





The Editor welcomes contributions that take into account *The Thinker's* vision of a democratic, non-racial, non-sexist and caring South Africa. Submissions of poetry and the written word should be brief. For visual material, a high-resolution document is required (300dpi Jpeg). Please send your work electronically to editor@thethinker.co.za for consideration.

Poetry by Afzal Moolla

This small selection from a wealth of poetry by Afzal Moolla highlights the nature of modern warfare. His 'child of war' evokes horror and compassion. The image represents not one isolated instance, but is part

of an endless repetition of pointless and terrifying injustice, which stretches from the past and into the future. The predator, in 'West eats meat', is a drone, remotely controlled by perpetrators who can regard the consequences of their

actions with sociopathic detachment. In his plea to the nameless soldier, Moolla reminds those involved in wars that they do have a choice – their conscience and humanity should determine their actions.

West eats Meat\*

Silently,  
slicing the sky,  
a Predator on the prowl.

Searching,  
through human eyes,  
miles away at HQ.

Picking up the signs  
fresh meat on the ground,

scanning heat signatures,  
confirmation reaches the bird,

sixteen high-value targets,  
on the move,  
in the cool desert night.

An order is given,  
the Predator banks left,  
steadies itself,  
while sharpening its claws.

With a whoosh,  
the Predator belches,  
its payload strikes the HVT's.

"Target destroyed",

a cheer goes up,  
miles away at HQ.

The smoke clears,  
silence returns,

while,

5 men,  
4 women,  
7 children,

stir no more,  
late for the feast,

as the bride lies cold,  
and dead,  
on the dunes.

"mission accomplished".

(\*with thanks to Pandit Ravi Shankar's extraordinary composition "West eats Meat")



A Child of War

As she lies bleeding  
 the girl who skipped and hopped to school  
 all of nine and a half years old  
 with ribbons in her hair and a laugh that was  
 her father's pride

As she lies bleeding  
 the warm bullet lodged in her torn stomach  
 she stares at her skipping rope  
 as her blood soaks it the colour of the cherries her mummy  
 buys

As she lies bleeding  
 she sees the people through the thick black smoke  
 blurred visions of scattering feet and shoes left behind  
 hearing nothing but the pinging in her blown-out eardrums

As she lies bleeding  
 she slips away quickly and then she is dead  
 a mangled heap of a nine and a half year old girl  
 whose laugh was her father's pride  
 As she lies bleeding

for even in death she bleeds some more  
 the warm bullet wedged in her torn stomach  
 steals the light from her bright little eyes  
 as she lies bleeding  
 in jallianwala bagh in '19  
 leningrad in '42  
 freetown in '98  
 soweto in '76  
 jenin in '02  
 hanoi in '68  
 beirut in '85  
 kabul now  
 basra still  
 gaza too

As she lies bleeding  
 this little nine and a half year old girl  
 whose laugh was her father's pride  
 we know she'll bleed and bleed some more  
 tomorrow and in many tomorrows yet unborn  
 with that warm bullet in her stomach  
 ripped open and torn  
 As she lies bleeding.

To the Nameless Soldier

Your orders may come now...	'Ready, aim, fire'	so when that order comes
...or at 19h45 this evening.	but you, the nameless soldier have heard	now
'Shoot to kill' 'Engage the enemy' 'Hold the line' 'Break up the gathering'	the cries of the grieving family the wailing of the widowed wife the quiet agonizing sound of the child's weeping	or at 03h30 tomorrow morning 'Ready, aim, fire'
'Ready, aim, fire'	'Ready, aim, fire'	let your humanity muzzle your rifle let your conscience dismiss the order let your better side come to the fore
but you have felt too	your orders may come now or at 23h30 tonight or tomorrow or the day after that or next week or month or year	and let your very own people, your mother and your father, your sister and your brother, your son and your daughter, your friend and your lover let them live let them be let your rifle fall to the soil of your beloved motherland
but you have seen too	but you have seen and felt and heard too	o nameless soldier.
the pain in a mother's eyes the grief in a father's face the incomprehension in a child's down-cast look	the agony of a peoples' simple desire the hurt of a nation long bludgeoned the wounds of your stolen generation	

Afzal Moolla was born in exile in Delhi, at the time when his father was Chief Representative of the ANC in India. Afzal travelled wherever his parent's anti-Apartheid work took them, spending time in Egypt and Finland. He returned to South Africa in 1990 following the unbanning of the ANC and other liberation organisations and the release of Nelson Mandela and all political prisoners. Afzal lives and works in Johannesburg, and writes poetry regularly. For more of his work, check the internet, eg. [poetrymagazine.com](http://poetrymagazine.com).

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Inspiring New Ways

# Response from Chairman of S.A. Zionist Federation (CAPE Council)



By Ben Levitas

Essop Pahad's 'letter from the editor' dated 1 February 2013, is a display of how ideology blinds thinking, allowing the truth to be perverted. Vague statements unsupported by any facts proliferate, for example, "The direct involvement of the major Western

powers...in fanning the flames of war." Unlike Libya, in which Nato and the West took an active interventionist role, it is purely disingenuous to claim 'direct involvement' by the West and blatantly untrue to blame them for 'fanning the flames'. It is patently

malevolent to absolve President Assad from being the player most responsible for the carnage. Assad enjoys the open support of Russia and to a large extent China as well, controls all the heavy weaponry available and exercises complete control over the

skies. Pahad goes to great lengths to reaffirm Assad as the 'legitimate' ruler and any effort to overthrow his regime, as 'illegitimate'. It is unforgivable for someone who experienced minority rule in Apartheid South Africa, to try to defend minority rule in Syria, where Assad's Alawite dynasty only comprise about 12 per cent of the population.

By accusing Nato, led by the US, of 'further intimidation', only because they supplied Turkey with Patriot missiles, Pahad displays either extreme naivety or duplicitous intent. How can an entirely defensive weapon system, deployed as a response to stray mortars and rockets already being fired into Turkish territory, possibly be perceived as 'intimidatory'? Surely neighbouring territories, which have already been detrimentally affected by the Syrian civil war, have a right and indeed a responsibility to defend their people and territory against rocket fire, either intended or unintended.

Then Pahad's vagueness becomes intentionally insidious when he insinuates that "NATO and its regional allies have long supported a motley collection of disparate opposition groups." He doesn't specify what support is afforded, but this leaves the door open that Nato may be involved in more than defensive activities and in lending only non-lethal support to the Syrian rebels.

Pahad's choice of quoting Joseph Kishore, that "the utter cynicism of the US operation is hard to convey." is unfortunate, when viewed in the light of Kishore's assessment of Marikana, which was posted on the World Socialist website on 14 Sept 2012 as follows:

"In South Africa, platinum and gold miners have defiantly spread their strikes against the transnational mining companies and their backers in the African National Congress, which ordered the massacre of 34 miners last month". I'm not sure that Pahad would like to associate himself with Kishore's apportioning blame to the ANC for deliberately planning the death of the Marikana miners.

Pahad's adherence to Kishore's Trotskyite logic leads him into an abyss which transcends logic and reason, when he asserts that; "the American military and the CIA are now in a de facto alliance with Al Qaeda in Syria." In the next sentence his conspiratorial mind completely contradicts the empirical evidence and the previous sentence, "Washington's move to officially designate the Al-Nusra Front as a 'terrorist organisation' is intended in part to cover over the fact that it has worked closely with the organisation". Again vagueness is the order of the day - what exactly Pahad means by 'worked closely', is never explicated.

"The conflict that the US has stoked threatens to devolve into brutal sectarian killings, accompanied by NATO BOMBS". I beg of the author to provide proof of NATO bombs. It is typical of the ilk of Pahad to try to blame either the US or Israel for

involvement?

But the Coup de Grace of Pahad's argument, that of course somewhere in the background that most nefarious of all states, Israel, all along was guilty for the whole Syrian debacle, needed to be inveigled into the conspiracy. Also to blame are Turkey, Saudi Arabia and Qatar for not taking a 'bullish' stand against Israel for its 'occupation' of Palestinian territory and in not supporting a campaign of sanctions against Israel. In Pahad's simple arithmetic these three states' lack of commitment to Israel's destruction is tantamount to the same error of judgement with which they perceive the Syrian civil war. So while Syria is classified as a 'lynchpin' state in the 'broader Middle East', Pahad defies logic and all the available evidence to pick his favourite culprit out of the hat, to overlook Syria, where the largest slaughter of people in the whole region since the Second World War has just occurred and is still continuing, and to point his finger of blame at Israel, an entirely uninvolved and blameless party: "It is not Syria that Constitutes a grave threat to world peace. In reality this threat comes from Israel."

The solution apart from ensuring the destruction of Israel, as postulated by Pahad, would have been to work with that most benevolent of all dictators, Assad. This dictator without a fibre of democracy in his body offers in stage 3 of his plan, that parliamentary elections would be held. Pahad is delusional to believe that a supreme dictator, representing a minority group of no more than 12 % of his people, would risk free parliamentary elections, because he would surely be overthrown.

In truth it is time to admit that a man that does not exercise the slightest hesitation to slaughter his own people, to unleash his army and air-force to bomb civilian targets without respite or any sense of moral wrongdoing does not deserve the mantle of leadership and should be treated as a war criminal-not as the 'legitimate leader' if Pahad has his way. ■

**“The solution apart from ensuring the destruction of Israel, as postulated by Pahad, would have been to work with that most benevolent of all dictators, Assad.”**

all the conflicts in the Middle East. In this conflict, both the US and Israel have done everything possible to stay out of this conflict. By not giving them any credit for exercising supreme restraint Pahad undermines his own case and displays his ideological blindness. The viciousness of his attack on the US, when he has not one iota of evidence to support his argument, merely highlights his mendaciousness. How can his claim that "The criminality of American imperialism goes beyond anything seen since... Nazi Germany" be believed in the Syrian context, when his argument is devoid of even one fact substantiating American

The Editor welcomes unsolicited submissions to the Readers' Forum and encourages those who would like to discuss or debate contentious issues to use this space. Please keep word count to no more than 800 words and note that some pieces might be edited for length. Send your contribution to: editor@thethinker.co.za.



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OSPITALITÀ ITALIANA



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