



By Raenette Taljaard

## POST-POLOKWANE

This edition of FOCUS covers events and fora that analysed the build-up to and events at the ANC's 52nd Conference in December 2007.

The Polokwane Conference culminated in a conclusion to the year's succession battle and the installation of Jacob Zuma as newly elected President of the ANC with Kgalema-Motlanthe as his Deputy.

The defeat of President Thabo Mbeki at Polokwane was nail-biting and dramatic and it has had a significant impact in the first quarter of 2008. This could be seen during the State of the Nation debate, and the tabling of the National Budget with newly elected ANC President Jacob Zuma present in the public gallery of the National Assembly for both events.

As the new ANC leadership celebrates its first 100 days post-Polokwane COSATU is flexing its muscles for increased representation in the structures of the party and it seems clear that relationships in the tripartite alliance, though significantly improved during lobbying on the floor of Polokwane, have shown signs of tensions during the year that have thus far included clashes between Jacob Zuma and the trade union movement about business-friendly comments in Davos and the print media.

Respected political commentator Prof. Steven Friedman analyses the deeper trends present in the Polokwane and post-Polokwane events and probes their implications for our body politic and the state of our democracy beyond the state of the nation.

Key Polokwane decisions such as the abolition of floor crossing and the Directorate of Special Operations (Scorpions) receive attention in an article by Koos van der Merwe, MP, who submitted a successful Private Members' Bill in Parliament seeking its abolition and Patrick Laurence who has followed the evolution of the debate as well as the Ginwala Commission of Inquiry closely, respectively.

The possible consequences of the changing of the guard at Polokwane for the political dispensation in South Africa's nine provinces are analysed by Dr. Michael Cardo and Jonathan Faull takes a close in-depth look at the ripple effects for the Western Cape as it prepares to contest the 2009 elections.

With racial and gender discrimination returning to haunt South Africa in the first months of 2008, with incidents of gross violations of human rights at the Noord Street taxi rank and the University of the Free State, South African Human Rights Commission Chair, Jody Kollapen writes for us on how we could possibly transcend this legacy and former State President FW de Klerk probes how we can forge unity in our diversity mindful of multiculturalism.

With growing calls to close down the Noord Street taxi rank Lisa Vetten analyses the underpinning causes of the symptoms that seem to erupt at Noord Street and at various other spots where female commuters suffer from a lack of safety, security and basic respect.

On the economic front, Jeff Gable looks at a macro-economic outlook for South Africa and Rachel Jafta comments on a brave 2008 budget. Christine Jesseman tackles product market concentration issues in cartelized market segments in the South African economy from a human rights perspective and shows how price-fixing is a clear human rights issue in South Africa when it comes to the price of bread and basic drugs and pharmaceuticals.

We hope that you will find this edition of FOCUS a fascinating and diverse read. This marks our third edition in our redesigned format and the Helen Suzman Foundation is preparing to celebrate FOCUS's 50th birthday edition with much pride and a rich content composition. We look forward to continue to forefront our vibrant democracy and the fascinating and unique issues that it generates in future editions.

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*Duchampian Chairs* by Guy du Toit recently formed part of the Space Fusion exhibition at Artspace. The exhibition examined the significance of the chair as a domestic object with revealing connotations and associations.

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# Post Polokwane: where to now?

Professor Adam Habib delivered the first of a series of public lectures instituted at the University of Johannesburg under programme director Kerry Swift. This is an edited version of his lecture on what South Africa can expect in light of the defeat of President Thabo Mbeki and the ascendancy of the new ANC president, Jacob Zuma, at the ANC's Polokwane conference.

If you want to ask what South Africa's politics will look like post-Polokwane, you need to understand what Polokwane represented for the ANC and for our democracy.

It seemed to me that Polokwane represented a rebellion against the leadership of Thabo Mbeki. But that rebellion was effectively a proxy for a broader rebellion that has become evident in our society. What is that rebellion about?

Effectively there are two answers to that. The first, which many people agree with, says it was against Thabo Mbeki's managerial style. He was not consultative enough, he centralised power, he manipulated state institutions, he represented a form of managerial rule that people felt uncomfortable with; they felt that they had lost control of the trajectory of the ANC because Thabo Mbeki had centralised power.

But I have argued that though that rebellion was in part about managerial style, it was also fundamentally about something more. And that, in my view, is that there's a strong feeling that this transition has disproportionately benefited the rich. The poor and marginalised people feel that they were the shock troopers to bring down apartheid,



Prof. Adam Habib reflects on various post-Polokwane trends that have emerged during the first months of 2008.

yet this transition has benefited the upper middle classes. Black economic empowerment has enriched a narrow band among the political elite. A large number of people in the ANC [African National Congress] deny this.

So – how do I explain Thabo Mbeki's managerial style? Most explanations are what I call agentially focused. They say that the problem is really Thabo Mbeki. The most nuanced and successful version of this, it seems to me, is the book by Mark Gevisser. He says the managerial style and economic policies of Thabo Mbeki, his alienation, are a product of his personality. But I think what the book does is tell us about Thabo Mbeki, the individual. It doesn't truly tell us about Thabo Mbeki the politician, the ANC leader, the person who was the architect of GEAR [the Growth, Employment and Redistribution strategy]. Gevisser's book says that Thabo Mbeki lived in a no man's land, in an inbetweenness for much of his life. He became aloof, and through being aloof he began to articulate an agenda that was divorced from his membership; he wasn't able to strike a rapport with the membership of the ANC.

[There is a] tradition in political science that speaks of institutional constraints, that individuals located in institutions, in society, are constrained by the institution and the pressures they are in. For me, therefore, there's a systemic explanation that lies at the root of trying to understand macro-economic policy in our society, the development trajectory in our society, and the managerial style of Thabo Mbeki.

To summarise: you are the leader of the ANC and come into power after a glorious struggle that lasted 80 years, and you have

the whole world at your feet. And on the one hand you have a bankrupt state, on the other, you have a population that brought you to power, that had a set of legitimate expectations. You need to think how to grow this economy, how to make sure that there are the resources for this redistributive agenda. So the ANC leadership goes to the corporate sector and says, we need direct investment. We don't need portfolio investment, we need bricks and mortar. And the argument was, we could only do that if there are a series of economic policy concessions; if there is privatisation, if there is a deregulated financial market, if there are the kinds of things that were eventually encapsulated in GEAR.

If you're Thabo Mbeki, and you've decided on this GEAR strategy, how the hell do you get it passed? If you put it in the national legislature, it will be defeated, not by the opposition, but by your own comrades. So you bypass the very structure you inaugurated as part of the democratic transition and GEAR gets endorsed by the Cabinet. Only later it gets announced in the country and endorsed by Parliament. But now you've got another problem.

How do you deal with the premiers in the provinces who have to implement GEAR? Well, you appoint them. What do you do with the big cities, Cape Town, Durban, Johannesburg, which have bigger budgets than some of the provinces? You appoint the mayor. And so gradually you create a centralisation dynamic.

Once you have done that, don't expect the people who are marginalised from the decision making, the comrades in the Communist Party and Cosatu, to forget about politics. They begin to organise and they begin to fight back.

So in 1998 Cosatu went on a general strike. In 2000 the Treatment Action Campaign, heavily supported by Cosatu, came out against Thabo Mbeki's AIDS agenda. In 2002 the same organisation came out against Zimbabwe. And in 2005 that same conflict manifested itself through the succession conflict in the ANC.

Jacob Zuma has an amiable personality, and people who speak about his educational levels actually don't understand this man's capacity, his ability to understand. He's an incredibly politically astute individual but he is, nevertheless, a traditionalist in a lot of ways. He doesn't gel neatly with the new political elite in the ANC. How do you understand the Cosatu support for him? Only if that support was, in part, a mechanism to weaken Thabo Mbeki.

The agenda was to get rid of Thabo Mbeki from the leadership of the ANC, and Jacob Zuma was the means to achieve it. They hoped, correctly or not, Jacob Zuma would come to power in the

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ANC, but, because of the corruption case, he would stand down as the candidate for the country's presidency, and that Kgalema [Motlanthe] would be the candidate. I think they were deluded to think that that would be an easy task, but it's interesting that that was the agenda that some of the people who supported the compromise option put forward.

On the basis of this, do I think that economic policy and the management will be different under Jacob Zuma if he comes to power? On economic policy I think there is very little likelihood of change. Over the past three or four years there has been quite a significant shift in economic policy in our society. In the late 1990s we spoke about privatisation, now we speak about the development state. In the late 1990s we talked about cutting state expenditure. Now we have a state-led infrastructural drive approximating R700 billion in the next five years. Social support grants are on an incline. There are huge increases in the education and health budgets. Of course, there are contradictions, but nevertheless that macro-economic policy and development trajectory have changed in significant ways in the last couple of years.

So under Jacob Zuma you're likely to see a change, but it will be in line with what has already happened under Thabo Mbeki. The Communist Party wants the nationalisation of Mittal or Sasol. Is that likely? Absolutely not. What is likely to happen is a policy agenda that will shift marginally to the left.

When Polokwane happened, the first interview that Zwelinzima Vavi did was with the BBC. Why the BBC and why Zwelinzima Vavi? His message was, we do not have unrealistic expectations. We only supported Jacob Zuma because it opens the conversation. We do not expect him to carry our agenda forward. And it was interesting, because they were sending a signal to the international investors.

On managerial style I think there is likely to be a difference, it's worthwhile bearing in mind that Jacob Zuma's personality is slightly different, he quotes Shakespeare far less. But also, there isn't a set of systemic pressures. The divide between the ANC leadership and its base on economic policy is far less dramatic than it was in 1996. On the international level there's a greater willingness to consider spending intervention by states. The war against terror and some of the worst excesses of globalisation have created a new post-Washington consensus, where even the World Bank now speaks about an empowered state, and not a reduced state. Corporates have become more open to a much more social democratic and interventionist agenda.

Now, let me address what I think are the big challenges that confront us. The first and the most obvious is the two centres of power. We had two centres of power between '97 and '99, under Thabo Mbeki and Nelson Mandela, but they didn't hate other in the same kind of way that exists now. Is it manageable? My argument is that if you have political maturity on both sides of the divide, then you can manage this relationship for 18 months. Have we seen such political maturity?

After Polokwane Thabo Mbeki didn't attend the first NEC [National Executive Committee] meeting. He didn't attend the second either; although he did attend the Lekgotla between the NEC and the state. He appointed the SABC Board without consulting a single member of the leadership of the ANC.

On the opposite side, you've had some members of the new leadership who have been determined to humiliate the President. When you cancel the celebrations of the national legislature, when you've done it for five or seven or eight years, that's designed to humiliate.

Kgalema Motlanthe, in this regard, and Jacob Zuma himself, have been very discreet in their remarks but there have been others who have been quite vociferous so you don't necessarily see a level of political maturity

The second is the issue of a representative leadership. Any ruling party anywhere in the world is composed of – a negative word is factions, a more polite word is stakeholders. A

Prof. Habib emphasises that political maturity will be key to managing ongoing post-Polokwane tremors.

clever political leadership makes sure that all these factions are represented. What has happened? Thabo Mbeki and the people close to him commanded 40% of the delegate support in the ANC, yet they're not adequately represented in the leadership. We've got a dilemma. You might not like the other faction, but if you don't keep them in the leadership, you create a problem.

Because the big lesson, if you want to learn from Thabo Mbeki, is that in 1996 he jettisoned the Communist Party and Cosatu, and marginalised them, and then they organised and came back 12 years later. That lesson should be borne in mind by this new leadership.

Finally, it seems to me that the leadership of a ruling political party has an enormous responsibility to legitimise state institutions. Of course I'm speaking about the Scorpions. There is a concern that, effectively, if you single-mindedly want to close the Scorpions down, you undermine the legitimacy more broadly of state institutions in our society.

Let me bring this to an end with reflections on two separate issues. Isaac Deutscher was a Marxist historian who wrote a beautiful trilogy on Leon Trotsky. He ends volume one with a chapter entitled "Defeat in victory". It is about how Trotsky sowed the seeds of his future defeat under Stalin at the point of his victory when he defeated the White Armies as the leader of the Red Army in the Russian Revolution. It would be useful to learn this lesson, which says that often the defeat that you suffer later on in life is sown by what you do at the point of victory. If this political leadership doesn't demonstrate a magnanimity that allows them to create a representative leadership, continues to become vindictive against state institutions, and most importantly, forgets that what brought it into power was the desire for poor and marginalised people to be part of the beneficiaries of this transition, if that is forgotten, then they will have sown the seeds of their future defeat at the point of their victory.

Another lesson that the ANC leadership, and you and I, need to also heed, is the story you know of the French Revolution and Marie Antoinette. The masses in Paris are demonstrating and she asks what is going on, and they say, "We want bread." And she says, "Why don't you eat cake?" And that callousness is what ultimately led to her being beheaded.

The more privileged in our society haven't been willing to make a little concession so the poor and marginalised can benefit and become, at least in part, beneficiaries of the transition. If the collective middle and upper-middle classes of South African society don't heed this lesson, we may suffer the same fate as Marie Antoinette did.





By Steven Friedman

# Post-Polokwane trends

Polokwane has come to be associated with leadership change and a changing of the guard. What is at stake are much deeper trends that signify the state of our democracy.

Telling people outside the African National Congress that Polokwane could open democratic possibilities is unlikely to expand your social circle: as gloom in the suburbs reaches levels unprecedented since the early 1990s, Jacob Zuma's rise is feared as a dire setback.

For some, the apparent rise of the left is worrying. For others, it is Zuma's cultural trappings – or that several new ANC executive members have been convicted of abusing public trust. Whatever the specifics, the fear that democratic progress is in peril is strong.

Another concern has been raised by South African Institute of Race Relations director John Kane-Berman and the Democratic Alliance. They reject the view that the Mbeki camp's defeat opened democratic possibilities

by signalling that leaders are being held to account by their constituency. On the contrary, they argue, it has exalted party over state in a manner reminiscent of the Soviet Union: the 600 000-strong ANC now gives orders and Parliament, which represents 20 million voters, about a third of whom do not support the ANC, obeys.

So one person's democratic possibility is another's launch into tyranny. But have developments in the ANC dimmed prospects for a more vigorous democracy or have they opened new potential?

## The past ain't what it used to be

Before answering directly, it is important to point out that both pessimistic views seem overly nostalgic about the recent past.



© AP Photo/Jerome Delay

Delegates at the ANC's 52nd Polokwane Conference opened the door to internal democracy in the party and, possibly, to much more.

While the Mbeki administration respected the Constitution, and the new leadership's zeal to dispatch the Scorpions raises valid questions about its commitment to accountability, it is hard to understand why we are, by implication, being asked to believe that progress is under threat.

Many commentators seem to have forgotten that the head of the current administration is accused of shielding the Police Commissioner from prosecution, of bullying a parliamentary committee into ignoring arms deal-related abuses and of fighting corruption selectively: the Zuma saga is a consequence of claims that President Mbeki was, rather in the manner of Russia's Putin, encouraging prosecution of political rivals only.

The Mbeki administration has also centralised government functions and ANC candidate selection, increasing pressures for conformity in the ANC. And so another key reason for Zuma's victory was a sense in the ANC that local and regional activists, and its alliance partners, were being ignored or vilified.

That some of these trends were duplicated across the political spectrum – the Democratic Alliance's leader also enjoys the power to rearrange key positions on the party list – suggests that they were at least as much a symptom of democracy's

newness as of the vices of the ANC. But the reality remains that the Zuma rebellion reacted to trends which threatened, had Mbeki won a third term, a steady decay of accountability, diversity and participation.

This surely challenges a second aspect of the nostalgia – the implied belief of many in business that government effectiveness is now under threat. But the real and perceived flaws in government performance which so disturb those who feel this way were not the responsibility of the "dangerous" new leadership, but of the "safe" old administration.

Smart, articulate people in suits who are au fait with the latest governance trends may make the suburbs feel better, but are not necessarily effective in government – in fact, they may be ineffective precisely because their cutting-edge sophistication distances them fatally from the society they are meant to govern. The Mbeki administration failed to deliver on its promise not because, as a current wave of prejudice suggests, blacks who don't know how to run things replaced whites who do, but because it was out of touch with its constituency and much of the country.

Third, complaints that the new ANC leadership has shifted power from Parliament to the party are difficult to understand, given that



© AP Photo/Jerome Delay

A tense moment between two very dissimilar leaders after Zuma's electoral victory against Mbeki at Polokwane signals change.

the DA has spent part of the last decade complaining about ruling party contempt for the legislature. The new leaders are trying, with varying degrees of success, to shift power from the presidency and bureaucracy to the ANC: whatever the merits of that attempt, the idea that parliamentary democracy is now succumbing to the iron grip of the party is strange since those from whom they seek to wrest power were themselves accused of ignoring Parliament.

### Too much of a not-so-good thing?

While the Mbeki administration has notched up some significant achievements, its penchant for centralisation and consequent remoteness, as well as signs of an increasing lack of accountability, made it highly likely that a third term for the President, and a first as Head of State for his chosen successor, would have prompted further decline in democratic health and government effectiveness. Whatever the change of leadership heralds, the status quo would have weakened prospects of building a strong democracy able to meet the needs of its people.

This must be placed in the context of current African developments.

The chief ill which has afflicted government in Africa is the ability of governing elites to insulate themselves from accountability to society: citizens have mostly lacked the muscle to force governments to account to them and so elites have stayed in power for as long as they liked doing much as they pleased.

It is this which is now under threat in several countries – economic changes have produced interest groups which now seek to hold governments to account. In Ghana, this prompted a change of power at the polls. In Zimbabwe and Kenya, the old elite has hit back, prompting tragedy. This is not a lurch into savagery, but an attempt by a part of the society to force government to account: a change in president is, rightly, seen as central to that task.

Mbeki's defeat at Polokwane is part of this pattern: while he was rejected by party activists rather than the electorate, again an organised group replaced a governing elite through a free vote. Here, as elsewhere, this is not guaranteed to produce vigorous democracy. But the old order was incapable of producing that and so the change has opened rather than closed possibilities.

### With the worst will in the world?

But aren't the advantages of a change in leadership cancelled out by the dubious nature of those who won at Polokwane? Was the whole drama not simply about replacing one elite with another – and a shop-soiled other at that? Surely democracy and accountability are threatened by a leadership whose priority is not fighting poverty or improving government service but closing down an investigative unit?

The coalition which elected Zuma is more diverse – ethically and democratically – than this objection suggests. Since one of

the few glues which bind it are having been discarded by Mbeki, it is a haven for people who lost out because they broke the law. But it also contains people who are assets to democratic government: it is hardly certain that its democratic impulses will be weaker than those in the old leadership.

More importantly, we must disabuse ourselves of the notion that democracy is deepened when high-minded people with a democratic vision take over government. The origins of some very old democracies suggest that this often happens when elites who are looking after themselves discover that democracy is the least worst option available – or unwittingly release democratic impulses they cannot control.

And so may it be here. The new ANC leaders probably hope they can persuade its members that voting leaders out of office once is heroic, twice is an undesirable habit. But there is no guarantee that the delegates who threw out Mbeki won't do the same to them and so they may be forced into more accountability than they plan.

Similarly, the change in leadership has prompted more parliamentary oversight. DA Chief Whip Ian Davidson insists this is not really a shift to accountability because the ANC caucus only holds to account Mbeki-camp ministers. But how else does parliamentary accountability happen? The norm is not for MPs to go after ministers they support, but to target those they don't. For now, ANC MPs have an incentive to watch over some ministers which they lacked before. It is partial and it may not last, but is an advance.

There is no guarantee that these trends will deepen democracy. But they are more likely to do so than the status quo. A democratic opening may have been created despite, not because of, the new ANC leadership.

### Stalin's ghost?

Finally, what about the claim that this is not a deepening of democracy but a power grab by the governing party?

Kane-Berman is right to remind us that democracy requires party competition, that Parliament represents the country while ANC leaders are elected by a small elite (as are party leaders everywhere), and that the one-third who do not vote for the ANC need representation. But the leap from there to claims of a Soviet-style coup is highly problematic.

If we should not romanticise the immediate past, we should not do the same to the functioning of parliaments: wherever party discipline is strict, parliaments tend to follow the dictates of the majority party.

Many of us would argue that as many decisions as possible should be taken by citizens – that if the public does want the

Scorpions, the politicians ought to accept that. But we rarely get that – in any democracy. Since neither elections nor the participation rights of minority parties have been infringed by the new ANC majority, we are no further from parliamentary democracy now than before Polokwane.

A more interesting, implied, aspect of this argument is that there is a trade-off between democracy in the ANC and in the country; that the right of the ANC to hold its leaders to account is being sought at the expense of the right of the country to do so.

This can happen – the abolition of the Scorpions may be an example. But there is no evidence that Polokwane has further insulated MPs from public opinion and made it harder for minorities to be heard – or that Parliament's role has been

At worst, the status quo has been maintained, with executive dominance giving way to party dominance. At best, a genie has been let out of the bottle which could ensure a more vigorous Parliament and more accountable government

weakened by the change in ANC leadership. At worst, the status quo has been maintained, with executive dominance giving way to party dominance. At best, a genie has been let out of the bottle which could ensure a more vigorous Parliament and more accountable government.

While it may seem logical that more democracy within the ANC should delay the emergence of more democracy in the country, this too lacks evidence – if India is a guide, more democracy in the governing party will increase pressures for more in the country.

In sum, the evidence suggests that Polokwane was not the end of democratic possibilities – on the contrary, a change in ANC leadership was vital if we are to move towards a stronger democracy. That this promise will be realised is hardly guaranteed. But Polokwane is a potential step forward, not an inevitable lurch backward.

# Dissecting the 'revolution'

At a recent Mail & Guardian Critical Thinking Forum panel discussion pre-Polokwane, panelists discussed whether ANC support for Jacob Zuma means “popular renewal or business as usual”.

The following are extracts and edited comments by panellists Aubrey Matshiqi, Karima Brown, Hein Marais and Langa Zita, with Judge Dennis Davis as moderator.

## AUBREY MATSHIQI:

Is [the ANC's] "popular renewal" about a rebellion against the establishment, a revolution, and will it lead to a renewal of any sort? And we must bear in mind that renewal may be synonymous with change, but it's not always synonymous with progress. Also, renewal is not always about the future. It is about, at times, reaching back to the past. It's clear that some in the party are cognisant of the fact that it has to go back to its past, to some extent, to find this renewal. Some articulate this in terms of the need to keep faithful to tradition, but of course, sometimes this articulation is nothing but a self-serving attempt at consolidating and defending certain narrow interests.

## KARIMA BROWN:

Societies move forward through contradictions, and the contradictions within the ANC at present allow us the possibility of re-imagining a different future. We need a leader and a leadership collective with a vision that can reinvigorate society, galvanise the broader section of people to make South Africa a better place. The jury is out on whether Jacob Zuma will usher in renewal. Objectively, though, three areas of renewal present themselves in terms of the ANC. The one is at a policy level, the second is at a leadership level, and the third is the political culture within the broad democratic movement.

## HEIN MARAIS:

Karima said 'contradictions'. I was going to use another word, 'dialectic'. The dialectic is that we're dealing with two [leaders], one of which is a shadow of the other. The one would not exist without the other existing.



Panel members dissected how currents of change and continuity would play out both pre- and post-Polokwane irrespective of possible leadership changes.

Jacob Zuma's candidacy would not [have been] anything to talk about if Thabo Mbeki did not exist. So, in many respects, this entire drama is about Thabo Mbeki, and how we, in our various ways, understand what he embodies and represents. The problem is that we all try to tie little tags on to Thabo Mbeki. We understand him in our various ways and we're like the mouse trying to describe the elephant, because the political phenomenon that is Thabo Mbeki, the project that he has tried to manage, is an incredibly eclectic one. It is full of contradictions, full of paradoxes, not many of them resolved, some attempting to be resolved, some he [hoped] could be resolved in a third term in some form or another.

Leaving aside the way he ascended to power and has exercised power, and I think most of us would agree the Queensbury Rules were not stuck to for most of that part of it, what he has taken away from us – and I'm not saying this is a bad thing – is a sense of simple certitudes. That, in part, is what this whole rebellion is about. It's about losing a world in which cats are either black or white; living in a world where cats are in fact grey.

This is the reality that Jacob Zuma is going to have to confront if he becomes President – the same dilemmas, the same conundrums, the same demands that confounded Thabo Mbeki and, indeed, Nelson Mandela when they became President. But what he is not going to have, at least I see no sign of it right now, is the hubris, the intellectual arrogance to think that he can make these various contradictions and paradoxes hang together in a coherent whole in the form of a political project.

Jacob Zuma does not have a political project that overarches where he's trying to take, or pretends to be taking, us. So when we arrive at that presidency, if we reach there, we are going to be confronted with a man who has promised a lot, who has got IOUs trailing behind him out of the door and into the road, who's going to have to manage this. I think he's a very adept manager, but he's not going to be able to satisfy everybody.

There's one big fact that I think we can't control, and neither can he: whether some of those interest groups that have jumped on his bandwagon, are going to be patient enough, for long enough, with the juggling act he will have to perform, and whether they might decide to make the kind of history that Thabo Mbeki was not able to make. That's when we will have the popular renewal.

### LANGA ZITA:

I think a critical thing is that Comrade JZ said that there's no policy difference between him and Thabo Mbeki. Secondly, what will be interesting is what is going to happen to the two lefts that accompany both comrades. The left is split. What will be left to do across the movement in terms of trying to drive a project? That creates a space for some form of renewal.

The resolutions that were adopted at the ANC Policy Conference definitely signalled a move beyond what we've had since 1994. So there is an organic process of renewal, and I think the contradictions will set in motion a space for a possibility of renewal. Whether that will materialise, we will all have to see.



**MODERATOR:**

There is a whole coterie of objections to Thabo Mbeki. Why, given the nature of the world in which South Africa is located, would one expect Jacob Zuma to change [those things]?

**MR MATSHIQI:**

Thabo Mbeki is faced with the consequences of encumbrance, and Zuma is not encumbered by such challenges. Some of us have argued that this is a clash between the establishment and an anti-establishment impulse, but I'm beginning to wonder whether this is a correct characterisation. Zuma and Mbeki are part of the establishment, and what we are seeing is a battle within the establishment.

**MODERATOR:**

Karima, if there are no major policy differences between these two men, aren't we looking down the barrel at very serious social instability?

**KARIMA BROWN:**

I like to characterise the battle between these two men as a kind of one class, many factions. I think they are members of the inherited class, essentially. But the politics and the real political struggle in parties in power is also about the art of what is possible. And I think the left, certainly within the tripartite alliance – and I want to draw the distinction between that left and the broader left – sees an opportunity. I am not able to predict whether it is going to be big enough to make some shifts.

The Treasury and SARS have worked really well, and why is that? Because we took conscious decisions, a political decision that those departments must work well. Did we take the same decisions around health? Education? Local government? No. We made choices based on our understanding. The government made choices based on where it wanted to go.

**MODERATOR:**

What are you suggesting when you say that they didn't prioritise [those things]?

**KARIMA BROWN:**

If we argue that we were not able in fiscal terms to deal with some of the immediate questions, we need to answer why we found money for an arms procurement package whose cost we still don't know, money for the Gautrain, whose costs we still don't know and which are continually escalating. A lot of the decisions presented as neutral, as technocratic decisions, are in fact informed by the very conscious, ideological choices that the state has made.

**MR MARAIS:**

What puzzles me is where the left ever got this idea that Jacob Zuma has leftist credentials. I haven't run across any evidence of it, which has me thinking that he approached the left, offering his services. But he probably has been approaching a whole bunch of other class interests in society, offering his services, or at least assuring them that nothing is going to change. So the left is going to try to stake claims, but I don't see how they drive home those claims.

Thabo Mbeki has managed a series of class compromises, but he's always kept a distance. Jacob Zuma's ascendancy to power puts him in an intimate relationship with various conflicting class interests in South Africa, and that is why I think that whatever the left thinks it's going to achieve there is going to be stonewalled.

Jacob Zuma's going to have to find ways in which to be seen to be changing things, and that's where I tend to start agreeing with Karima. I think he's going to look at a few easy areas, and those are going to be social development areas. One thing that he might try to do, and I hope he does it, is to create more space for social development ministries, so that we don't have this one über-Minister, Trevor Manuel, who basically runs the country for us, decides what's possible and what's not before there's been any debate about it. But there's going to be an ideological problem he's going to have to manage. People are going to feel cheated. If there is a divided ANC, I think race is going to become another big discursive tool. That's how you're going to bind together these various very pissed off groups in our society. That worries me because I think, in the political persona of what I've seen of Jacob Zuma, there are these reactionary currents. We've seen the mention of the death penalty being put back up for discussion, we've seen what he thinks about gay rights, what I think he thinks about women's rights, etc. So I think this dark side is going to be used in order to not have the ship fall apart around us.

**MODERATOR:**

Are you therefore suggesting that, in fact, we may say, as a country, "come home, Thabo Mbeki, all is forgiven", in five year's time?

**MR MARAIS:**

I hope we don't forget the unsavoury, the unpleasant and sometimes the deadly mistakes that he's made, and there have been many – but I think we'll look back with a different judgment about what he was trying to do, not of him as an individual leader, but what he was trying to do.

**MR ZITA:**

I think that actually we will come, maybe ten years down the line, to a view that says that Jacob Zuma really benefited from the

Panel Moderator, Judge Dennis Davis, probed various suggestions and strands of analysis offered by different panelists.

reforms that Thabo Mbeki put in place – stabilising the economy, growth, social grants and social delivery.

The ANC Policy Conference was left-wing. I sat in the same commission with Comrade Mbeki and we were almost verging on being ultra-left. And he had no problems with what we were saying, and we took those resolutions. So if you come back to the question of renewal, already, in policy terms, the renewal is there. It just needs someone else to implement it. We are on a deeper social democratic path. All we will see now is that someone else will claim these victories, yet we were all fighting for them within an ANC led by Thabo Mbeki.

### MR MARAIS:

Are you saying that it doesn't matter who the next President is, there's an organic process that has momentum behind it?

### MR ZITA:

For me, it does matter who the President is going to be because, for instance, if it's Comrade JZ, he still has to appease capital, he's going to show capital, "I'm not a populist, I'm responsible." That may take him three years to achieve.

### MODERATOR:

[If ANC policies are collective,] why are there deeply fought divisions? Why are people who are clearly comrades talking viciously about each other?

### MR ZITA:

The issue for me is not really the content of policy, it is the techniques of managing those policies. People are differing because they believe one leader, the coalitional forces behind him, can unwrap the problematic things. I just think that we've already made the move, so let's manage that shift with stability.

### KARIMA BROWN:

I think Langa is doing what the ANC does really well, and that is speak through both ends of its mouth. I think that if we accept his argument, then why [did we have] a race? Why is it that the phenomenon of Jacob Zuma is being demonised the way it is if, as we say, these two men are exactly the same thing? I think the question we need to ask is how does an ANC that is almost 100



years old, with institutional memory, get to the point where it waits for a leader to pronounce on something before it finds its centre on just about anything, whether it's HIV, whether it's Zimbabwe?

I think when we talk about renewal, we need to talk about the impulses coming from the ANC. People are beginning to say, we want to be involved. We are not going to be waiting for the Union Buildings to pronounce.

### MODERATOR:

I was intrigued to read that 1 400 people pitched up at the Great Hall to hear Mark Gevisser. I'm not suggesting Mark does not talk well and that it's not a good book. But have we moved from some sense of connectivity to a cult of leadership, and this is all about a competing cult?

### MR MATSHIQI:

I do believe that one of the unfortunate things about the ANC is that it has assumed the personality of its leader over the years, and it is for this reason that I think we should stop trying to think of renewal in terms of the ANC. For real renewal to occur, it must happen outside the ANC. It is very important that we, as ordinary citizens, reach a point where we are able to impose an agenda of renewal on the ANC.

# The (unequal) state of the nation

Among the topics discussed by a Mail & Guardian Critical Thinking Forum panel after the President’s State of the Nation address was the economy and its implication for inequality, and one thing the panellists agreed on is that things are not as they ought to be.

The Institute for Democracy in South Africa (IDASA), the Mail & Guardian and ABSA Bank hosted a debate on President Thabo Mbeki’s State of the Nation address, with IDASA’S Judith February in the chair, and Judge Dennis Davis as moderator. The panellists were Sandra Botha, MP, leader of the Democratic Alliance (DA) in Parliament; Jeremy Cronin, MP, Deputy Secretary-General of the South African Communist Party (SACP); Patricia de Lille, MP, leader of the Independent Democrats (ID); Mazibuko Jara, co-managing editor of Amandla Publishers; and Riah Phiyega of ABSA.

Each began with brief comments on the address. In the wide-ranging discussion that followed, one of the major topics examined was South Africa’s economic present and future, and how this relates to the extremely high levels of inequality in our society. What follows are edited extracts of comments by the panellists and members of the audience on the issue.

**MAZIBUKO JARA:**

[The President’s address] does not come to terms with the outcomes and effects of a particular economic policy,



The Critical Thinking Forum's distinguished Panel reflected extensively on how economic policy has affected levels of inequality in democratic South Africa.

as encapsulated in the 1996 GEAR document, and the fact that, despite all attempts government has put into place for economic growth and development, we are still faced with the reality of underdevelopment and inequality.

### **PATRICIA DE LILLE:**

I was looking for a speech that could inspire the nation, tell us that we're still in the right direction, but I think this is all promises and plans, and what we need to see is implementation of those plans. But we also need to acknowledge there are problems with implementation in terms of skills development, and that we have to do a lot more there. I still see job creation as the main challenge facing our country. Not one of the projections that we've seen has been met, so we need to go back and review that policy. We've got surplus money in our coffers today, but I would have invested some of that money into skills development. What we are facing is a mismatch between our economy and the skills we are delivering. We need to begin to produce the skills that are needed. We need to look at the whole system, so that we produce that kind of matriculant. Education is the best investment that you can make in any nation. And we need to look at the informal sector of our economy. They need a lot of assistance. It's now much more difficult to do business in South Africa than a few years ago.

### **JEREMY CRONIN:**

There are implementation problems, but some of the plans and policies are problematic. But the choices are not either continuity or some kind of mad macro-populism, and that's the paradigm that we're being forced into. There are many policy issues that have to be debated. Now I think that debate has started. Economic policy shifts unevenly, in denial about the fact that there are changes under way. Those changes have begun [with] a strong developmental state and the end to privatisation. We are hampered by this tendency to deny that there is any shift, [to claim] that there's continuity from the Freedom Charter, through GEAR, through everything else. Wrong! Things are complicated, and there is now space for a thorough policy debate.

### **JUDGE DENNIS DAVIS:**

Riah, the government's economic policy, as it stands at the moment, has done precious little to reduce unemployment. Where do I read anything [in the address] that's going to fill me with some hope that this issue is going to be redressed?

### **RIAH PHIYEGA:**

I think what you're reading has more to do with reactive interventions. The extended Public Works Development Programme certainly will bring temporary relief, not permanent relief, and that's not what the country is actually going to survive



Panel members emphasised that there is room for policy debate beyond 'mad-populism' and bland continuity.



on. Indeed, we appreciate that if you have nothing and you are a 60-year-old male pensioner, at least you just want bread on your table. [But] can we sustain a state that is based on social pensions and stuff like that?

### **JUDGE DAVIS:**

You could have the basic income grant. Many people think that's a very good idea. Not a mention about that here. What worries me is all I hear is "we've got plans", and then there's plans for plans, and more plans, and people are starving and becoming unemployed.

### **MR JARA:**

Well, clearly the plans have not delivered. For them to be meaningful and actually give hope, you need one fundamental recognition: that we cannot continue on the path that we have been on for the past 14 years. We have begun with this shift Jeremy refers to, to a developmental state. However, even key policy documents in the ANC [African National Congress] and government still subordinate that notion of a developmental state to a profit logic; it's still about making a case for making business cheaper, rather than saying how we address this crisis of underdevelopment.

### **JUDGE DAVIS:**

In fairness, this economy has grown at a probably longer and more consistent rate than at any time in its history. Sandra, I thought at some stage you people were praising the government for its economic policy. If you were the President of the country, what big idea would you have put in?



### **SANDRA BOTHA:**

Deregulation. At the moment it is costing the business sector R65 billion a year in establishing new businesses, with everything they've got to do to comply with government's requirements. I would get rid of that so that businesses can grow unhampered by regulations, by unnecessary red tape that is strangling them.

### **TONY EHRENREICH (COSATU, Western Cape Provincial Secretary):**

The fundamental problem is the huge levels of inequality that divide us, so we don't forge a nation that's able to respond to all of the difficulties we talk about. That's what government should be doing. The difficulty in our country is that we perpetuated privilege. A few of the ANC comrades have aligned themselves to the privileged

lifestyles, and the policies we've put in place have brought that about. We need a fundamental shift, where we talk about equality; we inspire people around the possibilities for the future, where they know their children are going to survive. I would argue that most of the people in front of me where they know their kids go to school in the shadows of Table Mountain, and they don't really care about what's happening on the Cape Flats. And that's got to change, both in politics and everyday economics.

### MS PHIYEGA:

Not all of us, Comrade Tony.

### MR CRONIN:

I agree the vision of popular mobilisation and involvement is absolutely critical, and that it has been somewhat missing. I think that what we've had is well-meaning government since 1994, whose well-meaning programme was, essentially, let us create an investor-friendly climate, private-sector investment will drive a 6% growth, and we will tax that growth and re-distribute by way of low-cost houses and so forth. I think that that's not working. That's what's in crisis, that whole policy, because it's treated people as consumers of a delivery from on high. Ordinary South Africans are used to being agents and activists to transform a reality. I think that was the spirit on display at Polokwane.

### UNIDENTIFIED SPEAKER (from the floor):

In the course of a very few hours when the President made his State of the Nation speech, the rand fell by about 3% against a basket of currencies of our major trading partners. Now, you may or may not think that it's important, and the role of FDI [foreign direct investment] in covering our public-sector deficit is frankly some minor technical affair; but if you do think that it is a matter of importance, what would you have advised the President to say that might have had a different effect on our standing in global financial markets?

### MS BOTHA:

I'm not an economist, but I think what the President could have said is that we're not going to go into reverse gear. That would have been extremely important and reassuring, because there has been this unease about what the next leadership is going to do. We need to ensure, for the very sake of the poor, that we create a fiscally sound environment, and not a hot-air balloon with promises that will evaporate when global or local economic

conditions shift. That would have been what I would have said, that we will steer a course. It isn't ideal. It hasn't delivered anything, but it has given us growth, and without growth there is no way we can afford to have any kind of social system, which we need to put in place for the poor, including a means-tested basic income system, which we support.

### JUDGE DAVIS [to Mr Jara]:

Countries like ours, small countries, are really at the mercy of a global economic world, and there are limits as to what can be done, and if you really felt mucking around – in other words, going against the grain, [letting] the rand go to 10, 12, 15, 20 – it would be a serious problem. Doesn't that, in a sense, mean that a lot of what you say has to be constrained?

### MR JARA:

Not at all. The President has, at least since 1994, been reassuring investors along those lines, and we have not seen the FDI [foreign direct investment] flows, despite all the reassuring policies throughout that period. Angola, the DRC [Democratic Republic of Congo], are getting significantly higher levels of investment than a stable democratic South Africa, and that reassuring message to investors has clearly not addressed the core critical questions of unemployment, of systemic underdevelopment and so on, that we have as a country. What we need is a message that says to the private sector that they must be party to the ball. In 2003 government, labour, and so on, signed a growth and development summit agreement making significant commitments for investment. No delivery from the private sector. A strong message to come from this government is that, for the private sector's own interest, there must be a willingness to invest in this economy.

### JUDGE DAVIS:

The fact is that domestic investment has increased, maybe not as much as you want it to, but it has increased.

### MR JARA:

It can't be denied. It's still not sufficient, and it's still not contributing to job creation. Once we can create an economy led by that particular kind of state, then it becomes quite possible to engage strategically with the global economy. If we've reduced our own capacity as a state, as an economy, then we just become mere victims of the global economy.



Images in this article © Clive Hassall

6 February 2008 – Helen Suzman

# King's College London — Honorary Degree

It is with great pleasure that I accept the honorary degree awarded to me by King's College London. I thank King's College for arranging for the award to be given in Johannesburg and Julie Thomas for handling the complicated arrangements this involved. Of course, I thank Nicky Oppenheimer for his kind permission to use Brenthurst Library for this occasion.

I have no doubt that Lord Douro, Chairman of the College, is responsible for initiating this award. Thank you very much, Charles – but why did you wait until I reached such an advanced age?

Having been informed of the award I thought it would be a good idea to learn something of the history of King's College London. I obtained this information from my son-in law, Professor Jeffrey Jowell, who is here with his wife, my daughter, Frances, and who teaches public law at University College London, which is King's College's older sister. He informed me that King's College was founded in 1829 by King George IV and

Charles Douro's ancestor, the Duke of Wellington, then prime minister of England. To their shame (my comment, not Jeffrey's), the "sisters" did not admit women to full degrees until 50 years after they were founded, although they were broad-minded on religious beliefs and even admitted agnostics! Both colleges became members of the federal system of London University, which also includes the London School of Economics, Imperial College and others.

Today I add King's College London to my CV, which contains a few other awards of which I am especially proud. The honorary doctorate from Oxford, which was the first to award me such a degree in 1973; the one from my alma mater, University of the Witwatersrand, in 1976; and the third from the University of Stellenbosch in 2006 – the oldest Afrikaans university in the country, the cradle of apartheid, bestowed an honorary doctorate on me, arguably the longest living liberal in South Africa! Well, times have certainly changed, though



Dame Helen Suzman flanked by Nicky Oppenheimer and dignitaries of King's College London at the Brenthurst Library where her honorary doctorate was awarded.

not all for the better. Another item on my CV that causes me some pride is that I was declared an enemy of the state by Robert Mugabe some years ago in the distinguished company of Lords Renwick and Carrington.

I want to take this opportunity to express my gratitude to all who were so helpful to me during my 36 years in Parliament. Firstly to my family – my late husband Dr Mosie Suzman, and my daughters Frances and Patricia – who supported me throughout my career. To all the faithful voters in the Houghton constituency to whom I was accountable, unlike today's system of proportional representation under which an aspirant MP is accountable only to the leader of his party. To Max Borkum, my brilliant campaign manager, who was responsible for my winning the vital 1961 election which returned me as the sole Progressive Party MP for 13 years.

To the remarkably impartial speakers, Hennie Klopper and Louis le Grange, under whom I served in those years. To my colleagues, Colin Eglin, Ray Swart and other friends such as David Welsh and Jeff Budlender, who were always ready to respond to my requests for professional advice. To Dr Selma Browde and Irene Menell, my

city and provincial councillors in the constituency, who took all the burdens of local politics at the coal-face off my shoulders.

To my invaluable researcher, the late Jackie Beck, who devised most of the hundreds of questions I put to infuriated cabinet ministers, one of whom shouted "You only put these questions to embarrass South Africa overseas". And of course I replied "It's not my questions which embarrass South Africa, it's your answers". And finally I want to pay homage to the English-language press which gave me unfailing support during my political career.

I have had a very long, privileged and interesting life in South Africa – sometimes maddening but never boring. As my father would have said "enough already", though I would like to live long enough to see what happens to Zuma. This may now be somewhat prolonged because if the court finds him guilty of the indictment of corruption, fraud, racketeering, appeal after appeal will no doubt follow – probably even until the next general election due in 2009. Then, if he becomes president as is very likely, he could grant himself a presidential pardon!

Thank you again for coming to this special occasion.

A DA-led City of Cape Town administration, headed by Mayor and DA Leader Helen Zille, in an ANC-run province adds to the fluidity of Western Cape politics and contests between the two parties.

By Jonathan Faull

# Western Cape currents

Post-Polokwane dynamics and the ongoing spy-saga turmoil in Western Cape politics causes various currents and countercurrents in this turbulent province.

If flux and fluidity are recent characteristics of South Africa's contemporary national politics, they appear to be a fixture in the south-west. Scheming, fixing, whispering and subversion are the currency of both competitive and collegial politics in the Western Cape. With a provincial election looming in a year to 15 months, a scullery of knives is at the ready for seasonal posturing and innumerable alley fights.

The status quo is a curious one: the African National Congress (ANC), yet to win a provincial Western Cape election, assumes provincial executive power with 57% of representation. Foreigners might presume a military coup, or ballot stuffing. Neither: the ANC in the province managed to inflate its 45% share of the 2004 vote as a consequence of the madness of floor-crossing, a procedure that has systematically mortgaged the interests of the citizens in the province to their erstwhile representatives. Thankfully, this circus of institutionalised



Western Cape Premier Ebrahim Rasool is buffeting the winds of change blowing from Polokwane in a province where the ANC is largely divided.

defection is likely to be undone before the 2009 election, restoring, belatedly, some credibility to an electoral system sadly maligned in the public imagination.

Concurrent to the ANC's occupation of the Wale Street executive, the City of Cape Town – home to approximately 62% of the province's population – resides in the hands of a six-party coalition led by an embattled but stoic Democratic Alliance (DA).

The ANC premier of the province, Ebrahim Rasool, has seen his star wane amid internecine battles with his party colleagues, non-strategic national affiliations, and allegations of lying and corruption. His politics appear adrift of the ascendant faction of the national ANC, and his opponents lie in wait to dispatch him into political oblivion. The Tripartite Alliance, appeased and ascendant in ANC national politics, remains alienated from the leadership of the Western Cape ANC.

Meanwhile at City headquarters, the incumbent Leader of the DA, Helen Zille, can point to a working alliance of opposition parties and claim ascendancy within her party and potentially at the national polls. But she also faces serious and potentially debilitating battles ahead with the remnants of the National Party (NP) in the Western Cape.

Ultimately, two interrelated factors, the relative turnout of opposition and ANC supporters, and the shadow of the apartheid overlords, may determine the outcome of the 2009 poll. The politics of the NP (and its comedic attempt at shedding apartheid baggage via the New National Party (NNP)) has fundamentally shaped the politics of the post-apartheid Western Cape and the turnout of opposition voters.

As the table below illustrates, the NP won the 1994 provincial poll with a clear majority of 53.25% over its main competitor, the ANC (33%), in a poll characterised by an unusually high turnout of 89.3%.

In 1996 FW de Klerk led the NP out of the Government of National Unity (GNU) to function explicitly as the opposition to

the ANC. Somewhat counter-intuitively, the NNP then launched a policy of "constructive engagement" with the ANC at a national level, but remained at loggerheads with the ANC in the Western Cape, where the relationship between the parties was characterised by acrimony.

The then-Democratic Party's Fight Back campaign in 1999 exploited this gap in the NNP's opposition makeup, and the DP toppled the NNP from its perch, assuming the role of the official opposition in the second Parliament while drawing away significant support from the NNP in the Western Cape, reducing that party's provincial takings to 38.39%.

After the 1999 elections, the NNP entered into a coalition pact with the DP in the Western Cape, granting the DP disproportionate powers in the provincial executive, whereby three of their five MPLs were appointed as MECs in the province. Presciently, the incoming executive contained one Helen Zille, MEC for Education, who quickly became a media darling, in turn carving out for herself a reputation for tough decision-making, a no-nonsense disposition towards finicky stakeholders and for getting work done. Needless to say, the NNP's Faustian pact did not help to dispel perceptions of a sinking ship.

In the immediate aftermath of the 1999 election, and in the run-up to the local government elections in 2000, the DP orchestrated a series of NNP defections, each of whom shuffled before a press conference singing the praises of Tony Leon and maligning their erstwhile leadership of Marthinus van Schalkwyk. Increasing political pressure forced the hand of the NNP to join the DP and form the Democratic Alliance (DA).

The marriage did not last long, and the NNP, never having legally constituted itself within the DA at a national or provincial level, formalised the divorce, ironically, through the very floor-crossing legislation that had been instigated to allow the DA to legally "unite" in the National Assembly – a legislative regime that would come to haunt the politics of the province and the DA. The NNP's straggling remnants entered into coalition with the ANC in the Western



Araminta de Clermont © SundayTimes

Cape, handing the province to a provincial government including the ANC for the first time. Far from stalling the NNP's decline, the capitulation continued.

In 2004 the NNP threw the political dice once more, contesting the elections with their partners, the ruling ANC. Having weaned their voters on "swart gevaar" rhetoric to "keep the ANC out" in 1994 and 1999, it was an act of faith to call on the same voters and ask them to return the party, as the NNP's bed-fellows, to power. Not surprisingly the DA exploited these difficulties, challenging NNP voters with the question "You wouldn't vote ANC, so why vote NNP? The ANC and the NNP are now together".

The voters didn't buy the NNP's message and its core constituencies either voted elsewhere or stayed at home. Turnout in the province plummeted from nearly 86% in 1999 to just 71% in 2004, and the NNP shed 72% of its 1999 support.

In just ten years, the party that won executive power outright in the 1994 provincial poll, with over 1.1-million votes,

was reduced to assuming the position of junior partner in a coalition with its sworn enemy, the ANC. Having shed 85% of its provincial support in real terms, the NNP ultimately shut up shop through the floor-crossing window of 2005, collapsing the remaining party structures into the warm, all-forgiving and expedient embrace of the ANC. Deal brokering assured senior Nats new jobs within the ANC's largesse, but the party's former constituencies remained largely on the opposition side of the fence, although a significant number simply opted out of politics altogether.

The following three tables disaggregate by race the City of Cape Town vote for the 1999 and 2004 national components of the election. The first table shows the dominance of the ANC with regard to the African vote, the ability of the ANC to mobilise the core of its constituency to go to the polls, and the categorical failure on the part of the DA to win African votes in the Western Cape. A full nine out of ten votes in predominantly African areas of the city, with turnout nearly 10% above the provincial average,

© AP Photo/Obed Zilwa



Western Cape politics remains a hotbed of drama on the eve of the 2009 elections.

accrued to the ANC. No other significant provincial party won more than half of a percentage point in this community.

A very significant factor influencing the ANC's ascendance in the province is the relatively low drop-off in voter turnout across the two election periods. All three groups turned out in similar numbers in the 1999 election, but while minority voters turned in much lower numbers in 2004, African voters turned out nearly 10% above the provincial average, increasing the proportional power of the ANC's constituency.

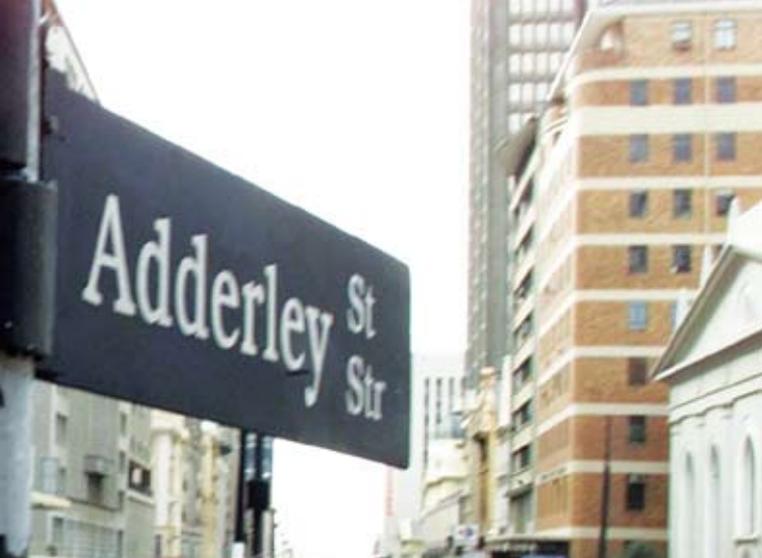
City of Cape Town	1999	2004
<b>Predominantly African wards</b>	<b>% vote won</b>	<b>% vote won</b>
<b>Turnout of registered voters</b>	<b>85.98</b>	<b>80.16</b>
<b>ACDP</b>	<b>0.18</b>	<b>0.14</b>
<b>ANC</b>	<b>92.33</b>	<b>91.9</b>
<b>DA/DP</b>	<b>0.06</b>	<b>0.24</b>
<b>ID</b>	<b>N/A</b>	<b>0.08</b>
<b>NNP</b>	<b>0.27</b>	<b>0.38</b>
<b>TOTAL proportion of vote accruing to five parties</b>	<b>92.84</b>	<b>92.74</b>

The second table demonstrates the consolidation of the white vote behind the DA in the aftermath of the NNP's serial strategic flip-flopping in the period 1999-2004. While the DA and the NNP evenly shared the spoils in 1999 with 41% and 42% of the vote respectively, one can observe a massive migration of voter allegiance to the DA at the latter election, with the NNP only able to retain one in seven white voters. Turnout, while above the 2004 provincial average of 71.27%, fell away eight percentage points from the 1999 average.

City of Cape Town	1999	2004
<b>Predominantly white wards</b>	<b>% vote won</b>	<b>% vote won</b>
<b>Turnout of registered voters</b>	<b>85.96</b>	<b>77.94</b>
<b>ACDP</b>	<b>5.88</b>	<b>7.67</b>
<b>ANC</b>	<b>4.38</b>	<b>5.1</b>
<b>DA/DP</b>	<b>41.05</b>	<b>67.91</b>
<b>ID</b>	<b>N/A</b>	<b>7.97</b>
<b>NNP</b>	<b>42.24</b>	<b>6.93</b>
<b>TOTAL</b>	<b>93.55</b>	<b>95.58</b>

The most dramatic impact of the NNP's decline, however, is evident in an analysis of a sample of the coloured vote, the largest demographic group in the province. While the NNP was able to accrue a clear majority (more than three in five) of votes cast in this community in the 1999 poll, the party's capitulation resulted in significant fragmentation of the vote and a massive fall in turnout. In 2004 not one party was able to win 30% of the coloured vote in the City, with the DA, Independent Democrats (ID), ANC and NNP all winning significant minorities. But while the NNP's coloured vote haemorrhaged, it also stayed home in significant numbers, as evidenced through a turnout figure a full 10% below the provincial average.

City of Cape Town	1999	2004
<b>Predominantly coloured wards</b>	<b>% vote won</b>	<b>% vote won</b>
<b>Turnout of registered voters</b>	<b>85.94</b>	<b>61.62</b>
<b>ACDP</b>	<b>3.99</b>	<b>5.17</b>
<b>ANC</b>	<b>22.44</b>	<b>22.9</b>
<b>DA/DP</b>	<b>8.24</b>	<b>27.77</b>
<b>ID</b>	<b>N/A</b>	<b>14.39</b>
<b>NNP</b>	<b>61.71</b>	<b>24.91</b>
<b>TOTAL</b>	<b>96.38</b>	<b>95.14</b>



## Looking towards 2009

Stats SA estimates that in the period 2001-2006 the population of the Western Cape has grown by 16.7%, more than double the national average of 8.2% and higher than any other province. This population growth is over and above the existing growth of 14.3% across the two census dates 1996 and 2001 (national average: 10.4%). Over the period 2001-2006 Stats SA moreover estimates that the province received, after Gauteng, the second highest proportion of inter-provincial migrants (361 476), half of whom came from the Eastern Cape.

These trends in population growth are necessarily changing the demographic makeup of the Western Cape's voters' roll. In the period 1996-2001, in the context of a provincial population growth of 14.3%, the African population of the province grew by 46% in real terms, the coloured population by 13.6%, and whites by only 1.38%.

Given the ANC's near monopoly on African votes in the province, such statistics bode well for the ruling party and starkly highlight the glass ceiling the DA's project faces if it continues to rely on minority votes in the province and so spectacularly fail to make inroads into the African electorate.

The challenge for the ANC in the coming 15 months will be to negotiate the looming provincial electoral conference scheduled for June this year with as little back-stabbing as possible; unite a disaffected grassroots and alliance; and get out the ANC vote in the 2009 election. It is unlikely, but if opposition turnout continues to stagnate in line with the trend of 1999-2004 and African turnout remains constant, demographic changes suggest that the ANC should win the electoral contest fairly easily. The ascendant faction of the ANC in the province associated with incumbent provincial deputy secretary, Mcebisi Skwatsha, and his deputy, Max Ozinsky, have been quietly betting on such a scenario for four years and wait in the wings to claim their stake. Precedent suggests that in general elections, the mass base of the ANC cares very little for the pettiness of their provincial politics and turns out despite the melee at provincial headquarters. It bodes well for the ANC.

Concurrently for the DA, the challenge is three-fold: unite the opposition; increase minority turnout; and win African votes. Precedent with regard to all three strategic challenges is not encouraging. The DA will have to campaign against the ID, specifically, and other opposition parties generally without negating the potential for negotiating a coalition government should the polls deliver a hung verdict.

Minority turnout fell significantly in 2004, but appeared to even out somewhat through the 2006 local government elections. The DA will have to convince a broad non-ANC constituency weather-beaten by floor-crossing and expedient leadership that engaging with the public sphere remains preferable to withdrawal and apathy.

The challenge with regard to a fragmented, demobilised and alienated coloured demographic who constitute the majority of potential voters in the province is self-evident from the data above. But the key challenge for the DA already highlighted by internal strategic wonks and the incoming leadership associated with Zille is to win African votes from the ANC.

This challenge is not only pertinent to the medium-term success of the DA in the Western Cape, but the country more generally. The politics of the Western Cape, the demographic make-up of the province, and the desperate competition among

These trends in population growth are necessarily changing the demographic make-up of the Western Cape's voters' roll

poor citizens for access to public goods and services is such that a cynical electoral cost benefit analysis would suggest that optimal ethnic mobilisation is a sure means of winning power. This strategy has informed the bulk of opposition campaigning in the province in the post-apartheid period, and now heavily influences the incumbent strategic decision making of the ANC.

The interests of citizens in the province, so easily and regularly maligned and manipulated, dictate the need for a different kind of mobilisation. Time will tell if the collective political leadership of the province is capable of seeing the woods for the trees, and able to recognise that long-term change requires foregoing some aspects of short-term strategy. The recent desperate protests on the part of poor citizens in Delft, Joe Slovo and Ocean View and the accompanying all-too-easy decline into the poisonous rhetoric of race do not presage such magnanimous politics. We can only hope to be proved wrong. The smell of unofficial campaigning already permeates the air. Let's hope the knives stay safely stowed.

By Michael Cardo

# Not exactly musical chairs

There could be a certain lack of harmony as the ANC enters the process of changing its provincial power structures.

The term “Business unusual” might have been the clunky theme of President Thabo Mbeki’s State of the Nation address, but it will be business as usual as the African National Congress (ANC) prepares for its elective provincial conferences in the coming months.

It is the business of faction-fighting and jockeying for positions that characterised the run-up to the party’s 52nd national conference in Polokwane.

ANC President Jacob Zuma’s allies are lobbying hard to remove Mbeki-aligned provincial chairs, and to replace Mbeki loyalists with their own partisans on provincial executive committees (PECs). They are likely to succeed in many of the provinces that nominated Zuma for the party presidency, some of which, like the Free State, already have provincial chairs sympathetic to Zuma.

Other provinces that nominated Zuma, but whose chairs campaigned for Mbeki – such as Sb’u Ndebele in KwaZulu-Natal and Thabang Makwetla in Mpumalanga,

both of them premiers – will probably purge the Mbekiites. Premiers Sello Moloto and Edna Molewa, party chairs in Limpopo and the North West respectively, are said to have been excluded by the Zuma camp from nomination lists currently in circulation.

Mbeki’s camp, in turn, is reportedly shoring up support in those provinces that nominated him for a third term as ANC president – Eastern Cape, Limpopo, North West and Western Cape – in a bid to influence both the leadership conferences and the lists for next year’s national and provincial elections.

Even in many of these provinces, however, the presidential nomination contest demonstrated Zuma’s ability to mobilise branch structures and attract a sizeable following. And it is well to remember that the backlash against Mbeki partly has its roots in provincial and local politics, as regional structures resented his authority – withdrawn at Polokwane – to appoint premiers and mayors.



© Mark Wessels

Former ANC President and State President Thabo Mbeki mulls matters during the State of the Nation debate. His defeat at Polokwane is a precursor to possible changes in provincial politics.

The upshot of the provincial conferences is likely to be increased tension between premiers appointed by Mbeki and newly elected chairs who come into power on Zuma's coat tails. Publicly, most premiers will toe the line. At any rate, from a strategic point of view, the national executive committee (NEC) can ill afford to recall them all immediately; and in a province such as the Western Cape, with its complex demographic dynamics, such rash action would constitute electoral suicide in 2009.

Nevertheless, there is bound to be friction between party structures and provincial cabinets over the next year, unless the latter are reshuffled to accommodate some members of the new guard. This has been proposed at a national level, where ANC deputy president Kgalema Motlanthe is surely due for imminent appointment to the executive – as has been called for formally by the new ANC NEC in March 2008.

Whatever friction ensues could severely weaken certain provincial administrations, impeding policy implementation, creating bottlenecks in service delivery, and ultimately leading to a crisis of governance. It is against this backdrop that the premiers' State of the Province addresses should be viewed.

Most of the premiers took their cue from Mbeki's State of the Nation address – a lengthy pouring of old wine into new bottles with showy labels – and focused on the so-called "apex priorities". In general, they are to: accelerate economic growth

and development; speed up the provision of infrastructure; develop skills; improve crime-fighting capacity through a revamp of the criminal justice system; and eradicate poverty.

In reviewing his administration's achievements and outlining its future plans, Premier Ebrahim Rasool warned: "In a province where social cohesion is fragile, where backlogs particularly in housing are severe, and where resources are declining while the population has increased by 16% over six years, there remains the potential for social discontent and protests."

The racial fault-lines which have emerged in struggles over resources, as seen in the recent demonstrations against housing allocations in Delft, are replicated in the ANC's own party structures. The ANC has stated candidly in the past that "one of the biggest challenges in the Western Cape is racial prejudice between coloureds and Africans", which "manifests itself in almost all walks of life, including in the ANC".

A purportedly non-racial faction, led by Rasool, is pitted against an Africanist faction, centred on the party's provincial secretary, Mcebisi Skwatsha, and his deputy, Max Ozinsky. For reasons which are more idiosyncratic than ideological, going into the national conference the former group was broadly sympathetic to Mbeki while the latter hitched its fortunes to Zuma.

With their man having prevailed at Polokwane, the Skwatsha faction smelt blood and agitated for Rasool's removal from office.



Various Provincial Addresses by Premiers marked the start of new dynamics post-Polokwane. Premiers such as the Eastern Cape's Nosimo Balindlela will feel the heat post-Polokwane.

A newspaper report quoted one senior party leader in the province saying: "We really are very serious about removing him immediately and we have the support in the PEC to do it."

For the moment, in the face of intense pressure from their own allies, Zuma and ANC Secretary-General Gwede Mantashe have indicated that premiers are unlikely to be sacked before they see out their terms.

Yet it seems probable that if Skwatsha's faction manages to manipulate the outcome of the provincial conference in its favour, which it succeeded in doing three years ago, the writing will be on the wall for the Mbekiites. This would mean purging current party chairperson James Ngculu, who switched allegiance from Skwatsha to Rasool and championed a third term for Mbeki.

Speculation is rife that Nomaindia Mfeketo, the former mayor of the City of Cape Town, will replace Rasool as premier after the 2009 elections.

In KwaZulu-Natal, Mbekiites are thin on the ground.

A week before delivering his State of the Province address, Premier Sb'u Ndebele announced that he would not seek another term as provincial chair of the ANC. Ndebele actively supported Mbeki for a third term as party leader, despite the fact that Mbeki captured only nine votes in the nomination contest in the province to Zuma's 580.

A list in circulation proposes that powerful Zuma ally Zweli Mkhize, who was voted on to the NEC at Polokwane and is currently provincial deputy chair; should be elected chairperson at the forthcoming conference. This would put him in a commanding position to be the ANC's candidate for premier in the 2009 elections, although it is believed he has designs on a national cabinet post.

The list is dominated by people known to have backed Zuma for the presidency. They include Siyabonga Cwele, nominated as deputy chairperson; the ANC Youth League's Sihle Zikalala as deputy secretary; and former South African Local Government Association chief executive officer Makhosi Khoza as treasurer. In his State of the Province address, Gauteng Premier Mbhazima Shilowa declared that the province was on track to meet its goal of growing the economy by 8% by 2014, despite global equity market negativity, high interest rates and the power crisis.

Shilowa won't be there to drive the process, since he is already into his second term as premier and the Constitution precludes him from serving a third. At any rate, as a staunch advocate of Mbeki, his political fortunes are on the wane. Before Polokwane, he expressed concern about a Zuma victory, fearing that it "might lead to open conflict between the party and the national government, of the kind that has bedevilled the Free State and Western Cape". Shilowa also lamented Zuma's margin

of victory in the Gauteng ANC nominations conference, saying that he was shaken by the “winner takes all” approach of the winning camp.

The party in Gauteng will not choose a new leadership group before the 2009 elections, since it held its elective conference last year. At the time, Paul Mashatile, Member of the Executive Council (MEC) for Finance and Economic Affairs, beat Zuma ally Angie Motshekga for the position of provincial chair; despite the fact that she had received more branch nominations than him. Mashatile himself has since become aligned to the Zuma camp, although along with Gauteng Provincial Secretary David Makhura, he is understood to prefer Motlanthe as the organisation’s ultimate presidential candidate in the national elections.

Depending on what fissures form in the Zuma camp, either Mashatile or Motshekga could be well placed to take over the premiership in 2009. Motshekga’s profile was given a national boost when she was elected to the NEC in Polokwane.

For the rest, it seems likely that current provincial chair Ace Magashule will replace Beatrice Marshoff as premier of the Free State. Magashule played a key role in rallying the province behind Zuma, and was rewarded with a place on the NEC. In the Northern Cape, provincial chair John Block swayed the party towards Zuma, but it is doubtful whether he commands the necessary backing both nationally and provincially to succeed Dipuo Peters as premier.

ANC branches in Mpumalanga, like those in the Free State, gave Zuma an overwhelming endorsement in the nomination battle, despite Premier Thabang Makwetla’s open campaigning for Mbeki. She is expected to be challenged for the provincial chair by MEC for Transport David Mabuza, who helped deliver the province to Zuma. Mabuza now sits on the NEC. Dina Pule, the agriculture MEC and ANC Women’s League activist who backed Zuma, and was elected to the national working committee (NWC), may also feature in the new line-up.

In Limpopo, ethnic divisions among Pedi, Tsonga and Venda make for “a very tricky province”, in former Premier Ngoako Ramathlodi’s words, and one that requires “very delicate political management”. Mbeki gained 224 votes to Zuma’s 210 in the nomination round, which suggests a fairly even split between the two camps in the province.

Premier Sello Moloto campaigned assiduously for Mbeki, and there are now calls for his head. He has tried to avert a backlash by pledging his loyalty to Zuma, and recently told members to leave the party if they could not support the new president. Nevertheless, party structures are reportedly planning to replace Moloto as provincial chair with the current MEC for Local Government and Housing, Maite Nkoana-Mashabane. Nkoana-Mashabane was voted in at 11th spot on the NWC in Polokwane. Party secretary Cassel Mathale has also been mooted as a potential successor to Moloto.

Like Moloto, North West Premier Edna Molewa alienated many party members by touting votes for Mbeki. She also estranged several PEC members last year when she appointed Jan Serfontein as provincial agricultural minister without consultation. At the time, it was reported that the PEC wanted Molewa removed as premier and provincial chairperson, and replaced by her deputy chairperson, Molefi Sefularo.

Despite expectations that ethnic solidarity with Mbeki would influence the nomination contest in the Eastern Cape, Zuma took 40% of the vote there.

Mcebisi Jonas, who was defeated by just under 200 votes of the total 1 509 cast for the chair in 2006, may yet be rewarded for his efforts on behalf of the Zuma camp. For the time being, chairperson Stone Sizani, who along with the Deputy Minister of Defence, Mluleki George, was one of Mbeki’s leading praise-singers ahead of Polokwane, enjoys greater support within party structures than Premier Nosimo Balindlela.

Provincially, regional factionalisms add their own set of complications, and make it difficult to predict with certainty who within the broader anti-Mbeki bloc might be earmarked for higher office

Speaking at the ANC’s 96th anniversary rally in Cape Town, Treasurer-General Matthews Phosa sounded a warning to premiers: “If President Thabo Mbeki can take instruction from the organisation, then who are you as ... premier to refuse to do the same? If you do not take instruction, then you are asking for marching orders.”

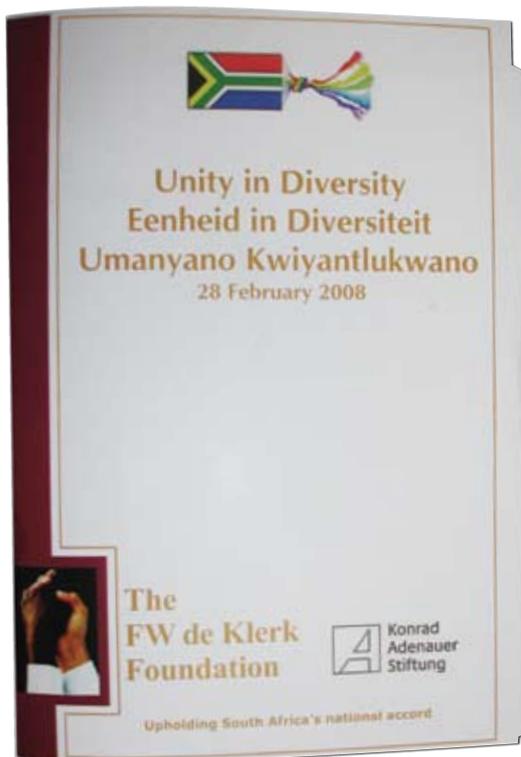
Although the threat of dismissal hangs over the heads of Mbeki-appointed premiers, they are unlikely to court it through wilfully diverging from the party line. So far, Zuma and his lieutenants in the NEC have shown themselves reluctant to embark on a wholesale purge of executive officials. But it goes without saying that they want to tighten their grip on party structures, and that they want their people in power in the provinces.

This is not to suggest that the Zuma camp is homogenous. Nationally, it might not even be wedded to a Zuma presidency. Much depends on the outcome of his trial and his ability to appease the left, which, having succeeded in its role as kingmaker, may yet prefer Motlanthe to wear the crown. Provincially, regional factionalisms add their own set of complications, and make it difficult to predict with certainty who within the broader anti-Mbeki bloc might be earmarked for higher office. Whatever the case, the ruling party will continue to be polarised along Mbeki/ Zuma lines in the months ahead.

By FW de Klerk

# UNITY IN DIVERSITY

The FW de Klerk Foundation recently hosted a Conference on Unity in Diversity with high-level government participation. Former State President FW de Klerk reflects on the outcomes.



On 28 February the FW de Klerk Foundation held a conference on “Unity in Diversity” to explore the progress that we have made since 1994 in forging national unity on the one hand and in promoting our rich cultural heritage on the other. Our objective was to create a platform for debate on these topics between government and civil society, with particular reference to the constitutional requirements for unity and diversity and the role of the Constitution, education, language policy and sport in promoting these objectives. We had distinguished speakers and panellists (including ministers Naledi Pandor and Pallo Jordan and [former minister] Kader Asmal) and succeeded I, hope, in focussing attention for a few hours on these important topics in our national life.

Unity and diversity are by no means academic questions. They lie at the heart of highly contentious issues such as the recent reprehensible incident at the University of the Free State; the decisions of the Black Journalists' Forum to exclude whites from Mr Zuma's recent press conference; and the squabble between Norman Arendse and Mickey Arthur on the composition of the



Former State President FW de Klerk calls for an enhanced understanding of multiculturalism in a nation that simply must escape its past divisions but not lose its vibrant diversity in the process.

national cricket team. In short, they go to the heart of the debate on who we are as a nation and who we would like to be.

There are a number of opposing views on how South Africa should deal with questions of diversity and national unity.

The ANC has a somewhat contradictory approach to cultural diversity. On the one hand "it recognises that individuals ... will have multiple identities, on the basis of their physiological make-up, cultural life and social upbringing" and that "such distinctive features will not disappear in the melting pot of broad South Africanism". On the other hand it questions the popular imagery of a "rainbow nation" because such a view fails "to recognise the healthy osmosis among the various cultures and other attributes in the process towards the emergence of a new African nation".

It emphasises that "the main thrust of the National Democratic Revolution is not to promote fractured identities, but to encourage the emergence of a common South African

identity". It warns that some identities associated with "culture" or "ethnicity" or "religion" might in fact be contradictory to the building of "a new nation that is based on principles of equity". It asks, in considering "the identity of the South African nation in the making ... whether it should truly be an African nation on the African continent, or a clone, for example, of the US and UK..." It concludes that "what is required is a continuing battle to assert African hegemony in the context of a multicultural and non-racial society".

This ambivalence to the management of diversity may explain why so little has been done to promote multiculturalism since 1994, despite the clear requirements of the Constitution.

Our failure to promote cultural diversity puts us out of step with the developing international consensus. The United Nations Development Programme's 2004 Human Development Report called for "multicultural policies that recognise differences,



champion diversity and promote cultural freedoms, so that all people can choose to speak their language, practise their religion and participate in shaping their culture – so that all people can choose to be who they are”.

Our Constitution is in alignment with this developing international consensus. It recognises our diversity of language, culture and religion. It protects the right to freedom of association as well as the right of persons belonging to cultural, religious or linguistic communities to enjoy their culture, practise their religion and to use their language. It confirms their right to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

We have a right to free association and diversity but it is a right that may not be exercised in a manner inconsistent with any other provision of the Bill of Rights – and particularly with the provision that prohibits unfair discrimination.

This ambivalence to the management of diversity may explain why so little has been done to promote multiculturalism since 1994, despite the clear requirements of the Constitution

Our courts have shown that they support diversity in our society. In a case before the Constitutional Court two years ago affecting the Lesbian and Gay Rights Project, Justice Albie Sachs pointed to the existence of a number of constitutional provisions that “underline the value of acknowledging diversity and pluralism and give a particular texture to the broadly phrased right to freedom of association ... Taken together they affirm the right of people to self-expression without being forced to subordinate themselves to the cultural and religious norms of others, and highlight the right of individuals and communities being able to enjoy what has been called the ‘right to be different.’”

However, they do not allow anyone – or any institution – to discriminate unfairly against anyone else. Thus, the courts would probably uphold the right of black journalists to form

their own exclusive forum as part of their expression of their own distinctive culture. I think they would be less inclined to sanction the holding of press conferences that exclude white journalists, since such discrimination would unfairly prevent them from doing their jobs. For the same reason, it is clearly unfair discrimination if black students are barred from public hostels at the University of the Free State.

In addition to questions of diversity and freedom of association we also need to examine the acceptable boundaries between the state and civil society.

In general, the African National Congress’s views on how non-racialism should be pursued are governed by the precepts of its National Democratic Revolution and the attainment of its goal of establishing a “non-racial democracy”. This is defined as a society in which all “centres of power and influence and other spheres of social endeavour become broadly representative of the country’s demographics”.

At first glance this would seem to be fair and reasonable. However, on deeper examination it becomes clear that in a multi-community society, “representivity” means that minorities would be subject to the control of the majority in every area of their lives – in their jobs, in their schools, in their universities and in their sports. In effect, the concept of across-the-board representivity is irreconcilable with the constitutional principle of cultural diversity. Diversity requires an environment with numerous centres of cultural, social and economic activity, all existing in mutual toleration and respect. It presupposes a degree of community autonomy and acceptance that there are important spheres of life that should be free from majority interference and control. It creates space for community-based education; for diverse religious institutions; for Chinese restaurants; and Portuguese greengrocers.

It means that it’s okay for Jewish South Africans to build up businesses that are predominantly Jewish and for British-descended South Africans to have schools that reflect their values and traditions.

All this, of course, is predicated on two key principles: firstly, the prohibition of unfair discrimination and secondly, that in their diversity, all our citizens should give their first and overarching loyalty to South Africa and to the Constitution.

We should have learned from the past that we cannot force the realities of our complex society into rigid ideological moulds, however well-intentioned the motives might be. The Constitution rightly calls for the government to move towards demographic representivity in public institutions. However,

even this requirement is predicated on the continuing provision of effective services and the prohibition of unfair discrimination. The Constitution does not require demographic representivity in other sectors of society, although it clearly prohibits unfair discrimination.

The fixation with representivity ideology is beginning to cause serious distortions:

The precipitate replacement of trained and experienced personnel in the public service, municipalities and parastatals in pursuit of racial employment targets has been a major factor in the decline in service delivery at all levels of government. Some state departments refuse to make critically needed appointments simply because there are no suitably qualified black candidates.

The private sector experiences similar difficulties with the application of representivity-driven affirmative action: how can companies meet targets for demographic representivity in the appointment of accountants if only 10% of the available pool are black?

Predominantly white church-based non-governmental organisations in the welfare sector are being pressured to make their boards and organisations demographically representative, despite the fact that they generate more than two-thirds of their own running costs and that the main beneficiaries of their services are previously disadvantaged communities. How – with the best will in the world – can the Afrikaans Christian Women's Union become representative of the population as a whole?

The requirement for representivity is also at the root of ongoing tensions regarding the composition of national teams. The new National Sport and Recreation Amendment Act, 2007, gives the Minister of Sport powers to issue binding directives to private actors in sport regarding transformation of sport along racial lines.

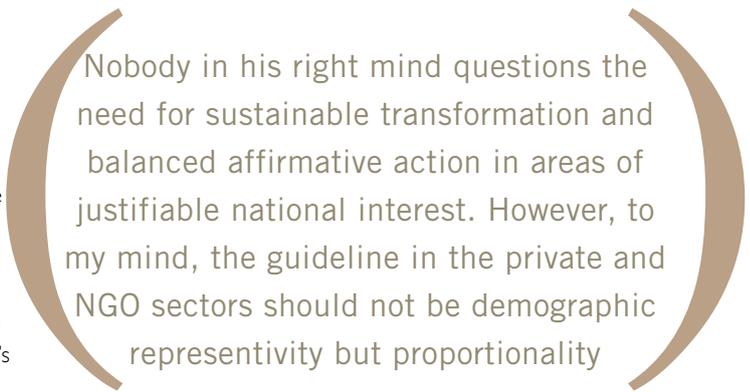
Such interference in the activities of civil society is unacceptable not only in terms of our Constitution but also in terms of most international sporting codes. It is in clear contravention of the International Olympic Committee principles that require that "the organisation, administration and management of sport must be controlled by independent sports organisations" and that prohibit "any form of discrimination with regard to a country or a person on grounds of race, religion, politics or gender".

Nobody in his right mind questions the need for sustainable transformation and balanced affirmative action in areas of justifiable national interest. However, to my mind, the guideline

in the private and NGO sectors should not be demographic representivity but proportionality.

Employers should ensure that if black South Africans comprise 30% of the pool of available expertise, they should make up 30% of all appointments. This approach should be coupled with energetic steps to increase as rapidly as possible the number of suitably qualified black candidates as well as the removal of all conscious and unconscious barriers to their appointment and promotion. And, by definition, organisations with a cultural nature should be exempt from any requirement for demographic representivity.

One of South Africa's greatest heritages is our rich diversity of languages, cultures and religions. It is this rich diversity that



Nobody in his right mind questions the need for sustainable transformation and balanced affirmative action in areas of justifiable national interest. However, to my mind, the guideline in the private and NGO sectors should not be demographic representivity but proportionality

makes us a rainbow nation. We can best build and consolidate this heritage and promote true national unity if we accept the following principles:

We must promote and celebrate our cultural, linguistic and religious diversity;

We must accept that no culture or identity should be able to claim superiority or hegemony over any other;

There are important areas of national life that should be free from state interference and intrusion;

We must treat people from other communities with respect, consideration and courtesy and should avoid unfair discrimination in all our dealings; and

We must build a new over-arching national unity based on the principles and values in our Constitution.

# The ANC's floor-crossing sin to be cleansed at last

Floor-crossing is associated with gross political opportunism and was controversial when the Constitution was amended to accommodate it. Its adoption was fought, and lost, before the Constitutional Court. Post-Polokwane the ANC was more positive about a Private Members' Bill calling for its scrapping tabled by the IFP.

## Introduction

Floor-crossing became law in 2002 and 2003 making it possible for members of Parliament, the Provincial Legislatures and of Local Government to cross the political floor and carry their seats to other parties; for new parties to be formed; for mergers between existing parties; for parties to subdivide and for subdivided parties to merge with other parties.

## Designed to protect the ANC

The system was designed to ensure that only members of smaller parties would cross the floor, while those of the largest party, the ANC, were firmly locked inside. It was

# FLOOR CROSSING Season Open MIND THE VOTERS.....NOT!!



unthinkable to have even attempted to canvass around 30 ANC MPs to cross the floor, which was needed for ANC MPs to cross. That would have resulted in a serious split in the governing party, which was simply not real politic. The moment one MP would open his mouth to canvass another to cross, the word "traitor" would spread and the canvasser expelled from the ANC in no time. In this way, therefore, the ANC itself was "protected" against Floor-crossing.

## Smaller parties shed much blood

Smaller parties shed much blood. The UDM, for instance, lost 10 of its 14 MPs. Provincially the ANC gained an outright majority in the Western Cape Legislature through floor-crossing.

## A democratic scandal

One of democracy's most scandalous wounds is the fact that during the 2002 Municipal Elections, the New National Party

which held no seats before then, suddenly was the proud owner of over 340 Councillors in office thanks to floor-crossing.

## Constitutional Court

The UDM challenged floor-crossing in the Constitutional Court, but it was declared constitutional, with comment on certain technical deficiencies, which were soon rectified by Parliament.

## The effect of Floor-crossing

The effect of floor-crossing legislation was that persons who were democratically elected to represent Party A, could "steal" their seats and give the stolen seats to other parties during so-called "window periods".

Floor-crossing became a one-way process at either disintegrating the opposition into smaller components, or creating havoc in opposition ranks. It also distorted the balance of representation as democratically determined by the voters.



(WE INTERRUPT THIS CARTOON FOR A CROSS-THE-FLOOR-AND-KEEP-YOUR-SEAT WINDOW PERIOD)



I have been against the system of floor-crossing from its inception, because in our new electoral system floor-crossing is fundamentally undemocratic and in contradiction of the Constitution and established Law.

**The seat now belongs to the party, not the individual**

In terms of the proportional electoral system enshrined in our Constitution after 1994, voters now vote for political parties, no longer for individuals. This difference is of paramount importance and emphasizes the core difference between our new electoral system and the previous one where the winner took all and we voted for individuals in demarcated constituencies.

You now vote for a political party. Therefore the seat belongs to the political party, not to an individual.

The political party compiles and publishes a list of its candidates for election and determines who are to represent the party. The logical result is that seats won, are the property of the political party and not of individuals.

**Constitutional theft**

Therefore a member who gives his party's seat to another party is guilty of nothing less than constitutional theft, because that seat does not belong to that member, but to his or her party. In other words, by giving their seats to other parties, floor-crossers transfer rights which they themselves do not have. I cannot give away something that does not belong to me. This principle has

Floor-crossing has eroded public confidence in the democratic process and elected public representatives.

been known and respected for centuries and is expressed in the legal Latin maxim:

### **Nemo plus iuris ad alium transferre potest quam ipse habet**

which translated means no one can transfer more rights to another than what he/she himself holds.

Floor-crossing also leads to abuse and political instability. Disgruntled members simply cross the floor to other parties against the wishes of the electorate, nullifying the votes of the electorate. They cross the floor because of selfish reasons or for greener pastures. Floor-crossing has been described as political greed and merely concerned with short-term interests, rather than the wishes of the electorate.

### **Floor-crossing parties do not survive**

Apart from the ID I could find no evidence of any newly-formed party surviving a single election. Floor-crossers forming their own parties have therefore been eradicated by the voters at the first opportunity for making a mockery of democracy and of the electoral system.

### **A travesty of democracy**

If ever there was a travesty of democracy, it is for members elected on a list of Party A to form a new party, with no voter mandate at all and to sit in Parliament pretending to represent the voters. Which voters? Not one, of course. That is why I argued that floor-crossing is not only fundamentally undemocratic and in contradiction of our Constitution, but also against century-old legal principles.

### **Submitting my Bill**

The IFP had been inundated with criticism and dissatisfaction from its supporters. In fact there has been widespread voter dissatisfaction against floor-crossing, not only from IFP supporters but from supporters of all political parties. Against this background I submitted a Private Members' Bill in 2006 to scrap floor-

crossing. My Bill aims to give effect to the principle and practice that the people shall govern and prevent parties in having disproportionately larger or smaller representation; to maintain a political system of an inclusive as possible a character that fully accords with the wishes of the electorate and to the principle and practice that the Parliamentary system would enjoy legitimacy through the inclusion of the broadest inclusion of minorities.

Criticism against floor-crossing had reached such an advanced stage that President Mbeki gave the green light at the beginning of 2006 for a debate on floor-crossing. The rest is now history.

### **The proceedings in the Committee**

The Bill was discussed in the Committee, but all eyes were on Polokwane where the ruling party was to consider the matter. In December 2007 the ANC at Polokwane agreed to support my Bill and subsequently the Committee formally agreed and forwarded the matter to the Speaker to engage the process of scrapping floor-crossing Laws. Hopefully floor-crossing will belong to the past by the end of this year.

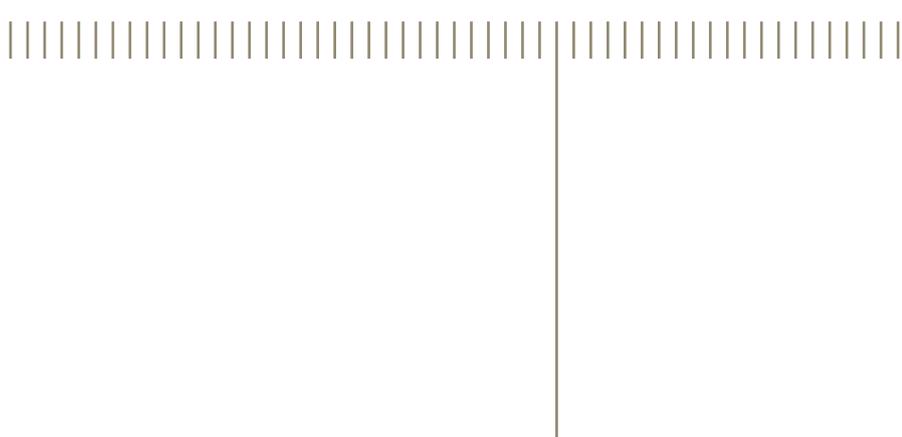
### **What remains, now?**

All that now remains is for South Africans to resolve never to be taken for a political ride again whereby the principles of democracy, constitutionality and the Law are held in contempt. The ANC has committed a serious constitutional sin by enacting floor-crossing and is now repenting.

The ANC's floor-crossing sin will hopefully be cleansed by the end of 2008 and may we never ever be subject to such a travesty again.

The time has fortunately arrived for South Africa to soon return to democracy. Returning to a system where the will of the voters and time tested legal principles are once again respected by Parliament.

( JH van der Merwe MP, Chief Whip of the IFP )



By Jeff Gable

# Jeff Gable looks at macro-economic Outlook for South Africa

South Africa's economy is affected by the turmoil in the global economy. Though the country's fundamentals are sound some strains are emerging for its macro-economic outlook.

The South African macro environment has deteriorated significantly as we enter 2008. Lower real incomes and tighter credit markets have hit the demand side of the economy, electricity problems have damaged the supply side, and the global environment has become much less favourable. The Reserve Bank, having increased interest rates eight times in 2006 and 2007, faces an increasingly difficult decision in the coming months as inflation continues to rise even as economic growth slows.

Is there any silver lining to this dark cloud? Commodity prices, perhaps, as gold, platinum and others have all pushed to new record highs. This will help reduce our current account deficit, and therefore some of our sensitivity to external developments, but whether this will happen quickly enough to avert further significant rand weakness remains to be seen. The National Treasury's projection of fiscal surpluses through the end of the decade also provides some degree of flexibility for government policy.

South Africa's legacy of cheap electricity has finally turned from a positive to a negative, as the consequent chronic under-investment in supply now

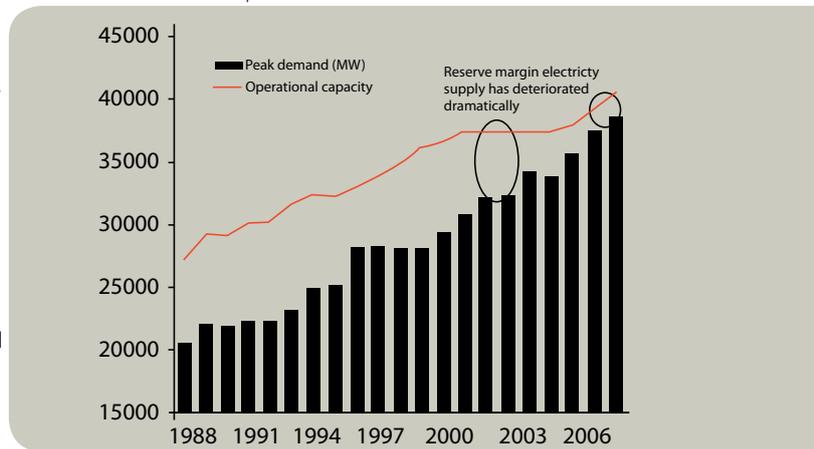
means that the country has effectively run out of spare capacity. Our reserve margin – the gap between what the electricity supply network can produce and supply safely and the country's demand – has shrunk from more than 20% just a few years ago to single-digit figures currently. This figure is well below the international norms of 15% or so and sufficiently tight to mean that the extra strain on the system could make reliability problems even worse.

This was demonstrated most clearly in late January, when a combination of poor weather, an unusual amount of unscheduled maintenance, and the underlying market tightness in electricity provision resulted in the country's largest industrial users being asked to reduce their electricity consumption to a minimum. For some deep mining operations, it meant a total shut-down of production for about a week.

We look for Q1 GDP to slip below 2.5% q/q at annualised rates. Intensive industries were provided with 90% electricity supply throughout February. That number now looks to be closer to 95%, but it is also clear that it will not be possible to return to business as usual. Even if plans to de-mothball some coal-fired plants this year and next and to add new gas turbine generators in 2009 are successful, the stark reality is that the country can no longer grow sustainably at the record 5% pace enjoyed over the last four years.

**Figure: South Africa's shrinking electricity reserve margin**

Source: Eskom, Absa Capital



Indeed, according to our own projections for the reserve margin, only the successful implementation of a demand-side management programme will be sufficient to halt more regular major electricity disruptions. The dominant electricity provider has, for instance, announced that it will delay granting permits to any new construction projects that would use more electricity than the average house for the next four to six months. For now, we believe that the worst of the impact on growth will have been

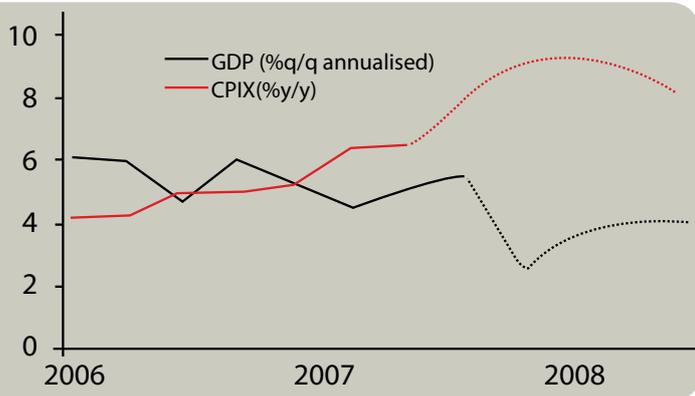
suffered in Q1, but for the full year; we have cut our GDP forecast from about 5% to 3.4%.

Of course, the economy was slowing even before the onset of the electricity crisis. For any of us with a mortgage bond or car repayment, we need only look at our own monthly budgets to understand why. As the prime rate rose from 10.5% in May 2006 to 14.5% today, the cost of debt servicing rose dramatically. Indeed, when combined with South African's growing mountain of household debt – nearly 80% of disposable income at the end of 2007, according to the SARB – this rise in interest rates has meant a significant increase in the costs of debt service. As recently as June 2005, the economy-wide average was for each household to spend 6.4c of each rand of disposable income on servicing their debts. That figure is now about 11c and looks set to rise further into 2008.

Not surprisingly, higher debt costs and the tighter credit conditions that have accompanied the introduction of the National Credit Act last June have combined to hit consumer spending. The sales of new passenger car sales have fallen on a y/y basis every month since February 2007 (the most recent fall being nearly 15%). Retail sales growth has now turned negative and house prices are largely stagnant.

**Figure: Slower growth and higher inflation**

Source: Statistics SA, Absa Capital



Unfortunately, the nature of this economic slowdown will do little to aid the Reserve Bank's fight against inflation. Against an upper target of 6%, CPIX rose by 8.8% in the January reading, and to 9.4% in the February reading. Worryingly, when we look at a measure of core inflation – calculated to exclude the impact of rising food and fuel prices – underlying inflation in South Africa is also on the rise. Our measure of "core" shows that inflation rose to 5.8% y/y in January, and while this might appear comfortable against either the 8.8% headline figure or the South African Reserve Bank's 6% upper target, it is worth noting that this same "core" series was rising at less than 2.5% in mid-2006.

Unfortunately, we have not yet seen the worst in inflation either. Compared to January, prices at the petrol forecourt are already dramatically higher and, based on the current under-recovery and considering the new fuel levies announced by the National Treasury in the budget, and the most recent fuel price hikes it looks as if the price of petrol will top R9/l in April.

The agricultural prices that underlie many of the increases in overall food prices are also worrying. Wheat prices are already up by a third since the beginning of the year and are approaching double their price of a year ago. It looks very much as if inflation is set to reach 10% in early Q2. While inflation is likely to fall after that, it is now difficult to see how inflation is going to fall back within target even by the end of this year. Even early 2009 is looking increasingly in doubt.

This puts the central bank in something of a bind as it must weigh its desire to act tough on inflation against its recognition that the 400bp in rate hikes already delivered have played a role in slowing the economy already. At present, we believe that this very difficult decision will be decided in favour of leaving interest rates on hold as the Bank views the downside risk to economic growth as the more serious constraint currently. The risks of a further rate hike have clearly intensified, and this risk rises further as the rand comes under pressure.

So far, so bleak. And against recent years when the message was about better-than-expected economic growth, significant job creation, lower-than-expected inflation and low interest

rates, it is harder to find the positive macroeconomic stories for 2008.

Hard, but not impossible, and there are two that we turn to now.

The first is the country's very strong fiscal position. In February, Finance Minister Trevor Manuel managed to surprise analysts by announcing that the country's fiscal position would be even stronger than expected. Expenditure growth will slow considerably but, at a projected 10.7% y/y for the coming fiscal year, there is still some expansion in real terms, and adjustments to the individual tax brackets should help protect households from some of the worst of the inflation-led bracket creep. A one percentage point reduction in the corporate tax rate to 28%, a simplification of the tax rules for very small businesses, and new spending on industrial support should aid business.

At the very top level, the National Treasury expects the budget to remain in surplus through 2010/11, even when faced with slowing economic growth and the additional budgetary costs owing to Eskom's current financial and operational challenges. That projected surplus is important, as it provides some room for the Treasury to react to any further downside risk to growth.

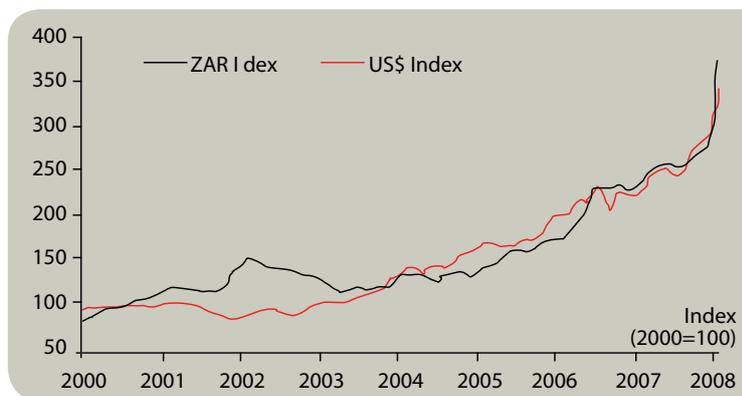
During this period of increased global risk aversion, the strong fiscal story also helps send an important signal to financial markets that the changes at the head of the ruling party announced in December do not yet mean a meaningful change in the top-down macro policies that the market has so far rewarded.

The second positive has to do with commodity prices and South Africa's trade deficit. Just as higher commodity prices cause our economy a problem in one area – inflation – they provide an opportunity in another – exports. As of mid-March, the gold price has rocketed to a new all-time high of \$1 030/oz, and platinum has traded comfortably above \$2 000/oz for more than a month.

At the broadest level, a weighted average price of our mining exports is up more than 70% y/y in rand terms, with much of this gain occurring since December. This huge increase in relative prices means that the value of our exports should rise even if the electricity supply problems means that the volume of our exports actually fall.

### Figure: Higher commodity prices will be a boon to our exports

Source: Department of Minerals and Energy, Absa Capital



More importantly, it also means that our overall trade deficit should do better than we otherwise would have expected this year, even as higher oil prices and the weak rand mean that we do pay more than before for our imports. We now expect that the country's current account deficit is likely to improve this year to 6.6% of GDP from an estimated 7.2% in 2007. That may seem like a small improvement, but compared to our previous 2008 forecast for a deficit of 8% it is an important one, as it reflects a reduction in our vulnerability to negative external developments.

Reduced, but not eliminated, sadly. At 6.6% of GDP, the current account deficit is still very large in absolute terms and will remain a key focus for the rand, for interest rates, and for the equity market. We have already witnessed some of the cost of this vulnerability as the rand has come under considerable pressure so far this year and the currency has lost about a fifth of its value. Given the local and global environment, risks are to remain very much stacked against the rand for some time to come.

( Jeff Gable (Head of Research, Absa Capital) )



Images in this article © Mark Wessels

# Future focus for the NCOP

Celebrating its first decade, the NCOP looks to the next ten years as a time for improvement and dealing with the possibility of major change.

Now ten years old, the National Council of Provinces (NCOP) has released a celebratory documentary and book on its history. The council's past and future were discussed at a screening of the documentary. The following are the edited addresses of the four panellists of the evening: NCOP Chairperson Mninwa Mahlangu; Speaker of Parliament Baleka Mbete; Councillor William Mxolose, Western Cape Chairperson of the South African Local Government Association (SALGA); and Prof Nico Steytler, Director of the Community Law Centre at the University of the Western Cape.

## HON MNINWA MAHLANGU:

The mandate of the NCOP is to represent the interest of provinces at national level. We must do this mainly by participating in national legislation or legislative process, and by providing a national forum for public consideration of issues affecting provinces. We also represent organised local government at national level. So we represent all the three spheres of government in South Africa.

Now the question is whether, in its first decade of existence, the NCOP has managed to carry out its mandate, and the answer is very simple: yes.

Let me start with legislation. The NCOP has participated in the national legislative process since 1997, and between February 1997 and February 2007 we have passed 687 bills – and we need to monitor these pieces of legislation.

Secondly, in 2002 we started the programme of taking Parliament to the people, and have since visited all the nine provinces, meeting the people and bringing the NCOP closer to them. This helps us to take back to Parliament the issues that we experience on the ground.

The third issue I want to focus on, is the provincial week. We have two joined working weeks with our counterparts in the provincial legislatures each year, which also helps us to understand better the challenges that are facing our provinces.

The fourth issue I want to raise, is engaging the executive. We have used questions to the executive to check on issues we pick up on the ground, and this year alone, [there have been] 179 written questions. Of these, 98 [were on] issues such as health, education, social development, agriculture and all those kinds of issue. And 43 were informed by, or drawn from, particular experiences in the provinces, because that is what we'd like to see. We want to see the provincial aspect covered in whatever we are doing in the NCOP, and not only deal with the national issues. So there's definitely a great connection between the provinces and the NCOP. This means to me that, practically, the NCOP gives meaning to the mandate given by the Constitution.

This work raises new challenges. For instance, some of the provinces are beginning to ask, is it sufficient or efficient to have the "take Parliament to the people" programme only once in a parliamentary term. Do we think that the programme allows us to make the impact we want to make in the manner it is implemented? What do we do for a detailed follow-up in between visits to provinces on the work we generate through this programme, given the fact that we have very few days in

Parliament? I was explaining to the parliamentarians that, truly speaking, the time you have in Parliament is actually only five months a year. How do you then balance the work of your Parliament and the work that you do in the province? We cannot do everything, and as such we need to focus where we are better positioned to make an impact. But the question remains, does the current position of the NCOP assist the House to carry out its mandate effectively?

The NCOP has fulfilled its constitutional mandate, but it is faced with a few challenges that we have to work on in its second decade, to make it even more effective and more relevant to the future of our children and the citizens to come.

## HON BALEKA MBETE:

I want to make four quick points. The first is that a lot of thought went into the creation of this house, it was not a straightforward overnight discussion and quick agreement. In a nutshell, the NCOP was conceived as a mechanism to deepen democracy, so that while many of us will tend to be stuck in Cape Town, there are processes and mechanisms that take us to our people by virtue of what the Constitution compels us to. We have to go down to the ground and talk to our people about what we are doing at National level. The NCOP is about ensuring a provincial input in a national legislative process, and that's why it's about deepening democracy.

The second issue relates to capacity, the numbers of the people that we have in the NCOP. We have only 54 full-time delegates who are at National level and, of course go back to the provinces, go up and down to get mandates, to do briefings – as they themselves have been briefed by the departments from which certain bills [have emerged]. I think it makes the lives of those delegates very hectic and you can do more by adding more members.

The third point relates to the process. It's about consultation, but the question I raise, as a person who is not involved myself directly in the NCOP, is whether there's room for improvement in the process of consultation in the province. Do we just go the provincial legislature and brief the committee quickly, and the committee takes a position, and quickly gives the position to you and you come back to Cape Town? Here I talk, perhaps, more as just an ordinary citizen. I need reassurance, because I think the NCOP is an opportunity that is too important for our society for us not to use it to its maximum benefit. While we are in the province



The NCOP, which replaced the Senate as South Africa's Second Chamber of Parliament, celebrated its Tenth Anniversary recently, and some challenging questions were raised about its role in democratic oversight.

consulting, do we make the best use of that opportunity, and not just to confine the consultation to the provincial legislature? Depending on the content of the issue, do you take the opportunity to go out to certain sectors of society and hold even deeper consultation with them, so that we open the process up? It is possible to do more by way of going into the community. It is an issue that will end up affecting how we programme the work back in Cape Town to give more time, more space for those kinds of consultations to happen, because only in that way do you really get down to the people. We must think forward, we must move forward, we must always say is there room for improvement.

Lastly, I want to say that we are an evolving democratic dispensation. We are not a finished product. We are very young, and so we shouldn't be satisfied to perfect our little corners, whether you are in the executive, in a council, or in a province. The responsibility we have collectively is to make sure this democracy works well for our people, because that's what our people have been fighting for.

### HON WILLIAM MXOLOSE:

We are gathered here not only to celebrate the tenth anniversary of the NCOP, but also to carve the way for this institution, and ensure that the work done over the past ten years does not go

to waste, but stands as guides for future generations, leaders, and scholars, not only in this country, but also around the globe. Institutional memory is important. It is through reflecting on our past that we know why we do what we do, and whether it is what we should still be doing. Without the knowledge of their past, preserved in the form of books and documentaries, as we are doing today with the launch of the NCOP Tenth Anniversary Institutional Memory Projects, future generations run the risk of repeating our mistakes, falling into the same traps that we did, and facing the same challenges that we faced. It is therefore important that as we celebrate our achievements, we also ensure that future generations have a way of tapping into our wisdom.

The NCOP is one of the most important and unique institutions to come out of our constitutional democracy. It is the only institution where national, provincial and local policy-makers converge and make policies that cut across the spheres of government. It is therefore important that this memory is preserved. It is also important that we ensure that the next decade becomes more successful.

The President [says in the documentary] that there is no substitute for the participation of local government in the NCOP. I agree with the President. I think that is an issue we must improve on so that the participation of local government in this great house will ensure the participation all the people.



State President Thabo Mbeki addresses delegates at the NCOP's Tenth Anniversary celebrations.

### PROF NICO STEYTLER:

The video is a great testimony about the innovativeness of creating this institution. It's new, it was complex, but the important thing is that the people there made it work, and it was created by what I call the new breed of parliamentarians that had to shuttle between provinces and Cape Town and make a very difficult system work. And that required energy, and it is remarkable that the work was done by 54 members. And then saying, not enough, we will also take it to the people – the outreach programme.

But looking forward – I don't want to spoil a good party, but we need to raise a couple of hard issues. Because this debate is now proceeding in a context of a wider debate about provinces, and also a review of local government, and what is a bit disturbing is that within this debate the NCOP is not mentioned. The reduction of provinces, if it happens, will have an impact on the composition of the NCOP. And when the Department of Provincial Local Government set out the review of the provinces, setting 65 questions, not a single question is being asked about the NCOP.

The future of the NCOP cannot be divorced from the questions that are being asked about the provinces. Should they be there as political institutions, as political entities? If that is the case, should they proceed as political institutions with or without legislatures? If they proceed with legislatures, are the numbers going to be reduced? And if they proceed more or less as they are in numbers, what should be their focus? What particular

function should be addressed? All these issues profoundly affect the functioning and composition, and also the very existence of the NCOP, because the NCOP is in fact the flag carrier of the provinces. It is the heart, this is where the provinces get together, and sometimes SALGA joins the party.

It is the function of the NCOP, the constitution tells us, to ensure that provincial interests are taken into account, that the consideration of matters affecting provinces are properly taken into account. And the broader question is, now, does the Constitution offer protection of the provincial interests? So there's two lines of intervention that the NCOP should engage in. The first is to focus on its core constituency, the provinces. Articulate the meaning of provinces and of provincial interests, the reason for having provinces, the interests that are protected, and also the viability of all the provinces. And once we've dealt with the building blocks of the NCOP, then the focus should be on the better functioning of the NCOP, and a number of suggestions have been made.

To conclude, these are the key issues for the NCOP in the immediate future as the debate rages on. The role that the NCOP has played in the past improving legislation, in making law-making acceptable to the broader public, cannot simply be lost in the debate regarding provinces. And so the duty of the NCOP is to engage in and articulate the very essence of its being, provincial interests and the need for provinces as political institutions.

By Lisa Vetten

# Of taxis and trials: snapshots from the Struggle for gender equality

Despite significant constitutional and institutional gains, South Africa's women still face considerable hurdles, prejudices and stereotypes as the Noord Street taxi rank incidents proved.

The word "Bitches!" hissed the large group of young men silhouetted on the ramp at Noord Street taxi rank. "Hamba!" shouted others, fingers gesticulating rudely as we marched by in protest at the stripping off of her clothes and sexual violation of Nwabisa Ngcukana at the same taxi rank. Only a few days earlier, in a spontaneous gesture of defiance, taxi drivers had bared their backsides at those participating in the protest march organised by the Rehomme Women's Association. But it took the group of men singing Umshini Wami during the march organised by the Progressive Women's Association to make the most direct connection between the hostilities evoked in 2006 by the trial for rape of ANC president Jacob Zuma, and the sexual attack at Noord Street taxi rank in February 2008. Arguably, the two incidents are closely related to one another – to the extent that aspects of the one inform and shape the other. They also illustrate the contested and contingent nature of gender equality in South Africa.



The incidents at Noord Street taxi rank shone a spotlight on the challenges South African women face every day to overcome gender stereotypes and discrimination. Noord Street is but a symptom of a much deeper malaise.

To begin with, both incidents relate to the temptations posed by women's clothing and its special power to transform men into slaving sexual beasts. According to Zuma, it was Kwezi's attire on the night in question, amongst other things, which signalled her desire to have sex with him: "In that respect he referred to the skirt she wore when she visited him on 2 November 2005 instead of pants as she used to wear." Judge Willem van der Merwe appeared to accept this "skirt = consent to sex" equation, writing on page 159 of his decision: "...the following should be emphasised ... In the accused's house the complainant walked around in a kanga with no underwear which prompted Duduzile Zuma to say she was inappropriately dressed."

While many South Africans regard women's clothing as provocative shorthand for "asking for it", the Zuma decision

elevated this stereotype to the status of legal truth and did so in a very public way. It is not entirely improbable then, given the power of the law to shape people's perceptions of what is right and wrong, that at least some members of South African society now consider punitive judgements of women's clothing to be judicially sanctioned.

In Nwabisa Ngukcana's case, her short skirt was treated as an insolent incitement to punishment and sexual assault. Opined taxi drivers interviewed by the *Mail & Guardian* (February 22 – 28 2008): "...don't go and provoke men in the street by wearing unsuitably short skirts", and, "I do not understand why any women would wear a short skirt. Women should respect their bodies and not flaunt them around taxi ranks or any other public areas."



But it is the singing of Umshini Wami that offers the most disturbing parallel between the rape trial and the Noord Street incidents.

Umshini Wami refers literally to a machine gun but, given guns' status as phallic symbols, it also has another connotation. It thus carries a double implied threat of both shooting and rape.

Dating from the struggle against apartheid, Umshini Wami also evokes historical notions of battle, enemy, oppressor and oppressed. Sung in the context of circumstances contesting the oppressive treatment of women, it thoroughly subverts the struggle for gender equality by positioning the (male) singers as oppressed and the (female) protesters as the oppressors.

Because the song is so clearly associated with Zuma, those who sing it invoke the power and authority of his leadership position. Further, given his acquittal on the rape charge, the song may also be interpreted to suggest that he is being held up as a kind of heroic resistance figure in men's struggle against women's domination.

This notion that men are the victims of changes to gender power relations post-1994 is not an unusual one. Callers to talk shows frequently complain that women have been given too many rights and opportunities (which they apparently also abuse). The evidence proffered for this typically includes the Domestic Violence Act, the Constitution, affirmative action for women, men's unemployment, requests to share household duties, rape trials and sexual harassment allegations. The

deeply conservative elements of the Zuma decision and the very public rebuke offered to women's organisations by Judge Van der Merwe may well have validated this simmering sense of grievance.

But if the Zuma trial attempted to silence debate then it ultimately spawned future resistance. Indeed, from some of the informal conversations I've shared with other women at these various marches, the determination not to be left impotent once again has added an additional sense of importance for some to these protests. It is almost as if the setback imposed by the Zuma trial was shaken off and voices found again.

The Noord Street incidents have also moved debates around gender-based violence out of the narrow confines of the legal realm and into domains where the potential for prevention lies, such as in urban planning, public transport and local government.

The importance of such preventive actions is made clear through research examining where rapes take place. One study by the Centre for the Study of Violence and Reconciliation, which analysed 162 gang rapes reported at six inner-city Johannesburg police stations during 1999, found that 11% took place along roads or alleyways while 8% were perpetrated at transport nodes such as bus stops, taxi ranks and train stations.

It is not only taxi drivers' attitudes that put women at risk of sexual violence. Transport terminuses are not always designed with commuters' safety in mind. Lighting in and around transport

The taxi industry is attempting to address the behavior of drivers but the societal symptoms of what their behaviour represents requires more concerted action to further gender equity.

depots may be poor and there may be dark corners and passageways in the terminuses where attackers can hide. It is also easy to trap women in tunnels and alleyways leading out of train stations.

Some public transport nodes are also located in deserted areas where few people are around to observe what is happening or come to someone's assistance. In the course of their daily travels to and from work, many women must also walk across vacant, overgrown land which once again presents opportunities for rape, robbery and muggings.

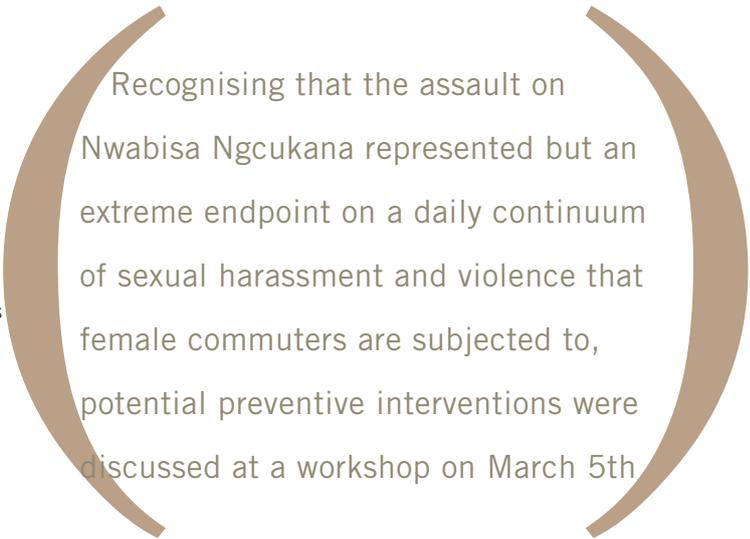
Noord Street, like many other transport terminuses, is busy and congested. There is little space for pedestrians to walk comfortably. This crowding together of people provides ample opportunity for some men to touch or brush against women inappropriately.

It is not only thoughtless urban planning that makes transport nodes dangerous. Many potential rapists lurk at taxi ranks, bus stops and train stations on the lookout for women new to a particular area and looking for work. Offering employment, they then lure their victim to another site to rape her. This method was sometimes used by serial rapist Simon Jingxela and serial killer Moses Sithole to trick their victims into walking with them.

Recognising that the assault on Nwabisa Ngcukana represented but an extreme endpoint on a daily continuum of sexual harassment and violence that female commuters are subjected to, potential preventive interventions were discussed at a workshop on March 5th. Organised by the Gauteng Department of Community Safety, it brought together representatives of taxi associations, commuter associations, some women's organisations, as well as the SAPS and the metropolitan police. A key outcome of the meeting was a commitment to a year-long campaign promoting women's safety at taxi ranks.

The proposed campaign comprises three different components. The education aspect is intended to provide commuters with information on laying complaints against members of the taxi industry, as well as educate drivers and marshals about gender equality and its practice in everyday life. The second component focuses on strengthening the code of conduct already developed by the taxi industry and ensuring

that it is broadened to include attention to gender violence. An additional education process is required to inform both drivers and commuters of the contents of the code. Promoting the safety of women at taxi ranks forms the final part of this campaign. This will include the implementation of a series of safety audits at taxi ranks to identify practical measures to reduce risk. Visible policing, improved security and the installation of CCTV will also be implemented in the immediate short term.



Recognising that the assault on Nwabisa Ngcukana represented but an extreme endpoint on a daily continuum of sexual harassment and violence that female commuters are subjected to, potential preventive interventions were discussed at a workshop on March 5th

In the final analysis, the Noord Street incidents are about so much more than a miniskirt. Where the Zuma trial admonished and reproved "pressure groups and individuals" for "jumping to conclusions and expressing criticism ... and scaring off unfortunate rape victims", both Nwabisa Ngcukana's courage in speaking publicly, as well as the ensuing marches and public conversation, have valorised individual women's agency as well as their collective resistance. Finally, taken as a whole, this collective response reasserts women's right to occupy public space with as much of a confident swagger and flourish as men do.



By Christine Jesseman

# The Constitution

## and the human cost of price fixing

The right to freedom of economic activity is not exercised in a vacuum. Is criminalisation of anti-competitive behaviour the next necessary step in defence of human rights?

**B**arely a week passes without further allegations of anti-competitive behaviour by companies screaming from the headlines. While actions are being instituted by the appropriate authorities, a question to consider is: how does this impact on you as an individual; as the community from which these companies derive their profit; as the mother who needs to feed her children; as the school feeding scheme which has to acquire its rations; and you who cannot afford to buy the medication which you need? In other words: What is the human cost, and how does this affect your human rights?

On 28 November 2007 the South African Human Rights Commission (SAHRC) participated in the hearing confirming the order against Tiger Food Brands (Pty) Ltd by the Competition Tribunal in accordance with the Competition Commission's finding of anti-competitive behaviour on the part of Tiger Brands. Tiger Brands was accordingly fined almost R99 million.

The SAHRC felt compelled to participate in the hearing in order to emphasise that anti-competitive behaviour has a human cost attached for the ordinary person, that companies may be in breach of their human-



rights obligations, and that such a breach may attach a further consequence. The commodity concerned in that specific matter, namely bread, is also a basic commodity, and the consequences of the anti-competitive behaviour disproportionately affect the poor. The statement that, in this context, anti-competitive behaviour becomes a thief at the dinner table, should bring this truth home, but does it?

As stated in the Competition Commission's press release of 16 January 2008, it was expected that the commission's actions would "prompt the bread producers to see fit to reduce the prices they had colluded over 12 years to fix rather than increase them yet again".

The latter part of the above press release refers to statements by some bread producers that the price of bread would increase substantially, altogether by 70–75 cents in the first half of the year. Bread producers announced differing price increases, some raising prices once or twice, others raising prices periodically. It has been stated that the reason for the increases include the rising input costs, particularly the price of wheat, but also increasing fuel costs.

There have been industry assurances of "no artificial inflation" of the bread price from Steven Mallach of Premier Foods, and Jimmy Manyi of Tiger Brands has denied continued collusion.

However, the Competition Commission has characterised the price increases as indicative of continuing collusion concerning price-fixing. New complaints to this effect have apparently been lodged with the Competition Commission, and the Competition Commission has warned the companies concerned of withdrawal of conditional immunity where it has been granted.

The issue of price-fixing among bread producers requires consideration within the broader context of the Competition

Commission's current investigations into cartel activity in related industries. To add fuel to the current food price debate, the Competition Commission alleges collusion among various major milk producers, and the Competition Tribunal has set down dates for the milk producers' hearings in September and October this year.

As stated, this informs the larger debate on the cost of basic foods. There have been numerous calls for government regulation of the bread price, for the removal of VAT on white bread and white bread flour, and for the government to subsidise basic products by supporting farmers.

### The human rights context

However, to return to the Constitution, what are your rights, what are companies' constitutional obligations, and how do we enforce them? The SAHRC has considered these questions with a view to future interaction with the Competition Tribunal and the Competition Commission, in light of the impact of the actions of private actors, and specifically corporate actors, upon the fulfillment of human rights as entrenched in the Bill of Rights of the Constitution.

It is necessary to emphasise that in terms of the application clause (section 8) of the Bill of Rights, juristic persons can be the bearers of rights to the extent that the nature of the right permits. However, they are also the bearers of obligations, for example, with regard to access to food. Section 8(2) of the Bill of Rights binds a natural or juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.

However, private and juristic persons are not liable to the same extent as the state when it comes to realising the right of access



to food and other socio-economic rights, but they do have an obligation to refrain from interfering with existing access to food and other socio-economic rights, and aspects of the specific rights may be horizontally binding.

Within the above framework, anti-competitive behaviour itself may violate the individual's right to sufficient food (section 27(1) (b) of the Bill of Rights), the rights of children to basic nutrition (section 28(1)(c)), and the inherent dignity of persons (section 10). Furthermore, not only could the targeted communities have suffered damages due to the passing on of losses by affected sellers to consumers, but resultant economic losses have ongoing negative social impacts.

The freedom of economic activity as encapsulated in the right to freedom of trade, occupation and profession (section 22 of the Bill of Rights) is not an abstract right exercised in

and satisfaction of other basic needs are not threatened or compromised. Economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to adequate food. Socially vulnerable groups such as landless persons and other particularly impoverished segments of the population may need attention through special programmes."

Even though the covenant binds only states (unlike the Constitution), private actors also have responsibilities, and the state must facilitate the fulfilment of these responsibilities:

"20. While only States are parties to the Covenant and are thus ultimately accountable for compliance with it, all members of society – individuals, families, local communities, non-governmental organizations, civil society organizations, as well as the private business sector – have responsibilities in the realization of the right to adequate food. The State should provide an environment that facilitates implementation of these responsibilities. The private business sector – national and transnational – should pursue its activities within the framework of a code of conduct conducive to respect of the right to adequate food, agreed upon jointly with the Government and civil society."

The link between the right of access to health-care services (section 27 of the Bill of Rights) and anti-competitive behaviour has been brought into focus recently by allegations of collusion in the pharmaceutical industry. In its press statement of 11 February, the Competition Commission alleges collusive behaviour by certain pharmaceutical companies with regard to tendering and market allocation.

In a constitutional context, pharmaceutical companies may bear obligations with regard to access to medicines. Again, there exists both a positive and a negative obligation on private health-care providers, as regards access to health care, and on pharmaceutical companies, more specifically, as regards access to medicines. The negative obligation requires that private actors not impair or prevent access to medicines. In addition, positive obligations may also exist where private actors have the power to control access to medicines.

The right to health care is entrenched in section 27 of the Bill of Rights of the Constitution. The right to health care is placed in its appropriate socio-economic context in the Constitution, having been considered under the same socio-economic banner as food, water and social security.

In an era of the commodification of human rights, the socio-economic inequalities prevalent in South Africa exacerbate inequalities in the realisation of human rights. This is starkly

In an era of the commodification of human rights, the socio-economic inequalities prevalent in South Africa exacerbate inequalities in the realisation of human rights

a vacuum. This right, like others, must be exercised with due regard to the rights of others, the obligations of individuals, and a broader awareness of the social context of individuals', and companies', responsibilities.

To provide an international context, in May 1999 the United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR) adopted its General Comment on the right to food, contained in article 11 of the International Covenant on Economic, Social and Cultural Rights. The CESCR emphasised that "[t]he human right to adequate food is of crucial importance for the enjoyment of all rights". The right necessarily includes economic access to food:

"13. Accessibility encompasses both economic and physical accessibility:

"Economic accessibility implies that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment



illustrated by the lack of access to adequate health care, more generally, and access to medicines, more specifically, and may be further entrenched in the event of collusive behaviour in the pharmaceutical industry.

In the broader Constitutional context, the SAHRC made a submission in January this year to the UN Special Rapporteur on Health on the UN's draft "Guidelines for pharmaceutical companies in relation to access to medicines". The SAHRC raised two related issues in its submission concerning industry self-regulatory proposals, namely that of anti-competitive or collusive behaviour, which is applicable to all industries, and also the transparency of the procedure. The latter principle of transparency is essential in ensuring confidence in the regulatory process and the consequent legitimacy of the outcome.

Having established that anti-competitive behaviour raises human rights concerns and that non-compliance may have further Constitutional consequences, one wonders where we go to from here. The apparent prevalence of anti-competitive behaviour among companies is troubling, and the extent of the impact upon the average person, but particularly the disproportionate effect on the poor, is surely the greatest impetus to further action. In the confirmation hearing of the Tiger Brands matter before the Competition Tribunal, the Chairperson of the Competition Tribunal acknowledged the rationale, at the time of the drafting of the Competition Act, of not criminalising anti-competitive behaviour. However, the Chairperson's further remarks were directed at the consideration of whether or not the necessary next step in the evolution of South African competition law is the criminalisation of anti-competitive behaviour. It appears from the public outcry that such evolution finds resonance with the views, and the pockets, of ordinary South Africans.

A contextualised consideration of the competitive, or anti-competitive, behaviour of companies requires a frank assessment of the development challenges in South Africa, the reality of extreme poverty, and the necessity of a fairer "division of labour" regarding the responsibility of realising human rights. This refers to the allocation of responsibility among the State, private actors (including business) and civil society. This entails a move away from the discretionary approach when considering the human-rights obligations of actors, public or private. Surely it is possible to consider this "division of labour" and the human-rights obligations of business without forgetting what (some think) business is about.

Christine Jesseman is Co-ordinator: Human Rights and Business Special Programme of the South African Human Rights Commission.

# Brave budget to 'weather the storm'

By the time February and the National Budget arrived, the mild harbingers of bad economic weather, evident at the time of the Medium-term Budget Policy Statement in October, had indeed become storm clouds of domestic and global dimensions. In South Africa political uncertainty and capacity constraints, especially in energy provision, appeared to be worse than expected, while globally the fall out from the sub-prime debacle and inflationary pressures continue to put markets under pressure.

It is with good reason then, that South Africans (and foreigners) looked to the Minister of Finance and his budget for pointers as to what to expect next (at least in the three-year budget cycle). In the run-up to the budget, some commentators predicted that the 2008/09 budget would be a 'watershed' one.

In the event, the budget turned out to be both reassuring in its adherence to the disciplined path established over the last decade or so, and innovative in its commitment to a more environmentally friendly approach to long-term economic growth.

While the budget in its entirety makes for interesting analysis, we will mainly explore two inter-related themes in this brief analysis. These are the budget's focus on measures to ensure long-term economic growth and its laudable attention to environmental concerns.

## Supply-side constraints, inflationary pressures and growth prospects

With global factors, such as the oil price reaching an all-time record of \$105 per barrel, as well as expected economic cooling in some of South Africa's trading partners and domestic factors (notably supply





Team Treasury and SARS Commissioner Pravin Gordhan accompany Finance Minister Trevor Manuel outside the National Assembly as he prepares to present 2008's politically brave Budget.

constraints and inflationary pressures) combining to make life more difficult for South African's, this budget aims to improve conditions for growth and employment creation. The expenditure allocations (Table 1 below) thus reflect these priorities. We focus here specifically on those aiming to address the need to expand the ability of our economy to grow. When faced with capacity constraints, the imperative would be to try and increase capacity. This is, however, not always possible, e.g. in the case of human capital. Hence, a short- and long-term perspective is required.

### Longer term: expanding capacity

In order to facilitate the necessary expansion in capacity, this budget continues the commitment to investment in infrastructure. Public sector infrastructure spending is steadily growing from 4.6% of gross domestic product (GDP) in 2004/05 to reach 7.9% in 2009/10, levelling off to 7.6% in 2010/11. This spending includes provisions for school building programmes, hospital revitalisation, public transport, housing, water and sanitation. In addition, public enterprises will invest in essential infrastructure such as airports, freight rail, ports, pipelines, wireless broadband, and dams. Assistance to Eskom's capital investment programme is provided from the contingency reserve.

### Implementing these large investments successfully, crucially depends on the availability of the necessary skills.

Human capital development thus remains a priority, prompting

the government to increase the share of the budget dedicated to education to R121 billion, with the prospect of growing by a further 11% p.a. in the current cycle. In addition, the budget makes provision for tax measures to enlarge the internship allowance to allow longer term apprenticeships, aimed at growing and improving technical skills.

### Short to medium: no room for waste

In an economy growing under low inflationary conditions, inefficiencies and waste can be hidden. Capacity constraints and tougher economic conditions, however, soon expose the cracks. To remain competitive and continue to grow, serious effort needs to be put into eliminating waste and using resources more efficiently.

As far as the public sector is concerned, this budget, like the mini-budget in October, urges government departments to use resources more efficiently and to cut unproductive expenditure, such as excessive use of consultants. In addition, the proposed measures to improve the operating conditions of small to medium sized enterprises are also aimed at greater efficiency.

To improve the export performance of South African firms, government proposes several measures at the micro-economic level, including appropriate steps in reforming import tariffs and customs procedures, cutting the red tape of regulation, improving port operations, incentives for R & D, assistance with technological development, marketing assistance and skills development programmes. To this end, the budget provides sizable expenditure allocations and tax provisions.

### Environmental concerns: the 'green' budget

"We have an opportunity over the decade ahead to shift the structure of our economy towards greater energy efficiency, and more responsible use of our natural resources and relevant resource-based knowledge and expertise. Our economic growth over the next decade and beyond cannot be built on the same principles and technologies, the same energy systems and the same transport modes, that we are familiar with today." (2008 Budget Speech: 14)

The supply-side challenges facing South Africans offer an opportunity to reconsider our current resource-use patterns in order to find more sustainable solutions. An area in which South Africa has made some progress is cleaner production, which we use here as an illustration of what may be possible.

### Cleaner production

When the subject of environmentally sound production processes is first broached, the first inclination is to think that this will add to the cost of firms, which will make them less competitive. The experience with a properly planned and executed conversion to cleaner production, however, shows that the opposite outcome is possible, i.e. savings in water, energy, chemical inputs, and effluent discharge. The National Cleaner Production Centre documents the experiences of South African firms who converted to cleaner production techniques and reports on cost savings ranging from almost R5 million for water and effluent to R4.6 million in chemical inputs. These are clearly not negligible savings.

**Table 1: Summary of reported savings in participating textile firms (June 2003)**

\* Other includes aspects such as raw material and consumables

Item	Annual financial saving (R)	Annual unit saving**
Water and effluent	4 970 000 (12)	790 000 kl (8)
Steam	2 560 000 (6)	31 000 tons (2)
Energy	565 000 (3)	
Heavy fuel oil	1 570 000 (3)	480 kl (2)
Chemicals	4 600 000 (6)	7 tons (1)
Waste	1 080 000 (4)	
Other*	3 660 000 (5)	
<b>Total</b>	<b>19 005 000 (16)</b>	



This is particularly relevant for the export sector. Whereas a weaker Rand offers better export prospects for South African exporters, capitalising on this opportunity may be weakened by supply-side constraints, especially energy supply. However, the efficiency improvement measures and cleaner production methods discussed above may counter this obstacle by making exports more competitive. In addition, there is a growing segment of affluent consumers in our trading partners that are willing to pay a premium for products produced with environmentally sound methods. This could therefore become a viable strategy for South African exporters facing tougher trading conditions in the market for their traditional offerings.

### Conclusion

While 2008 is a very difficult year to be making economic forecasts—given the various factors contributing to uncertainty, both at home and abroad – this budget exudes confidence. In its assessment of the current situation it asserts "it is time for neither gloom nor panic." It is, however, not blindly hopeful, but sets out the challenges ahead in sober terms, and proceeds purposefully to propose measures that ought to see the country through the difficult times ahead. Importantly, these include measures to improve and expand the long-term growth capacity of the economy and the beginnings of a commitment to do so in an environmentally sound manner.

### Bracing the storm, however, is not the task of one entity alone. As Minister Manuel puts it:

We are all in this together – business and community organisations, labour and government; the employed; the self-employed and the unemployed; the urban and rural; men and women. We may not be affected in the same way, but we face the same headwinds and uncertainties. None of us has the privilege of perfect foresight; none of us is isolated from the tides and turbulence of global markets.



© (AP Photo)

Post-election violence in Kenya erupted and caused tragic loss of life and a protracted political stalemate.

By James Shikwati

# Institutions, not individuals

Be suspicious of humanity: the Kenyan crisis has highlighted the urgent need for solid and incorruptible institutions to prevent injustice and put an end to bloody turmoil.

Purple voters' ink still fresh on his finger; a visibly angry high-school teacher lamented, "I will never vote again. Democracy is a bad thing; I thought winners ought to take office and losers join the opposition. Our country is burning!" With more than 1 500 dead, 600 000 internally displaced, and well over 100 000 Kenyans as refugees in neighbouring Uganda and Tanzania, many believe they are simply experiencing a bad dream. The kind of violence that engulfed the country from 29 December 2007 has been the preserve of unstable neighbors; it could not happen to an "island of peace", as politicians have traditionally referred to our country.

I had joined friends on 30 December 2007 to follow the progress of presidential vote-tallying on TV in Western Kenya. Anxiety had been building since 28 December, following delays in announcing results from Central Province, from where Mwai Kibaki, the incumbent president, hails. "We are unable to get results because our returning officers have switched off their phones!" The Chair of the Electoral Commission of Kenya kept repeating



© Daniel McCabe/Redux PictureNET Africa

After the Kenyan poll, the political crisis escalated, negotiating positions hardened, and desperation intensified.

the message, to the disgust of voters. As of 28 December, Raila Odinga had been in the lead. In fact, on the evening of the 28th, some people had already been celebrating a new government. It became clear that something was amiss when suddenly the main tallying centre was ringed by extra security agents. The much-feared paramilitary police put up road blocks all over Nairobi. By the time the commission Chair announced Kibaki as the winner, in a secluded room, with the event covered by government-owned TV and radio stations, major cities outside the presidents' Central Province were already experiencing sporadic violence.

Kenyan's protest against the disputed presidential vote tally unearthed deep-seated resentment against actions taken by ruling elites since independence. The struggle for independence had offered hope for ethnic groups to recapture their land from departing colonialists. Jomo Kenyatta, the first president of Kenya, used the World Bank and British Settlement Transfer Fund Scheme (STFS) to buy land from colonial settlers on behalf of the government. Unfortunately, he simply

transferred the land titles to his name and to his family, and helped his cronies and tribesmen to make use of the STFS and tax-payers' money to acquire further land in other regions of Kenya. The Kenyatta family alone owns an estimated half a million acres; political elites spanning the Kenyatta, Moi and Kibaki times are reported to own over 50% of Kenya's arable land, against a population of 36 million people. It should be noted that close to 70% of Kenya is arid and semi-arid, hence the pressure on land in productive areas.

To a casual observer, the intense emotion exhibited on 30 December was about a Kibaki–Raila supporter conflict. For the Maasai, however, it was about feeling betrayed that the Kibaki administration had refused to honour a lease agreement signed between the community and the British in 1894; the agreement had indicated a leasehold on a million acres of land that expired on 15 August 2004. The Kalenjin community in the Rift Valley, most of whose land was grabbed by the Kikuyu elite at independence, banked their hopes on a change of government as an avenue



Kenya's political agreement marked a tentative peace. Consolidating political gains and deepening peace will remain a challenge.

to address their grievances. Coastal communities had expected Kibaki to address the issue of absentee landlords, and the disputed entitlement to land by individuals who took advantage of illiterate communities (in the colonial era) to defraud them of their land. The general grievance against the Kibaki administration centred on sale of public institutions to politically connected individuals, ownership and manipulation of the Nairobi stock market, and the impunity with which he had awarded government jobs and contracts to members of his tribe.

In his infamous "Nyayo Philosophy", Daniel Arap Moi, too, awarded contracts to his fellow tribesmen, and filled key civil-service posts with them. However, as a member of the independence elite that grabbed land, Moi, to the chagrin of his tribesmen, the Kalenjin, failed to address their land grievances. In 1990, when Kenyans were clamouring for multiparty democracy, Moi's cronies attempted to use the land issue to rally support from his own community, which was showing signs of not backing him in an open democratic system. The clashes that followed targeted the Kikuyu community in Rift Valley, who at that time were at the forefront of the campaign for multiparty politics as a way to regain power. That explains, in part, the ruthlessness with which the Kibaki administration fired civil servants from the Kalenjin community in 2003. In retrospect, the firing of Kalenjin civil servants disorganised the livelihoods of an estimated half a million dependants who, in the 2007 elections, felt it was payback time for Kibaki.

The Kikuyu domination of strategic civil-servant positions, and the historical economic domination informed by post-independence Kenyatta loan schemes, virtually put the majority of Kenya's 42 tribes against a Kibaki victory. To many groups, this

was a vote against one tribe colonising the rest of the Kenyans. It should be recalled that in 2002, Kenyans had rallied behind Kibaki against Moi in what was believed to be a power-sharing agreement among tribes under the umbrella of the National Rainbow Coalition (NARC). Unfortunately, on ascending to power, NARC, which enjoyed massive support due to its promise to review Kenya's constitution, not only failed to get the power-sharing agreement, but witnessed the re-emergence of the independence-elite cabal, controlling the instruments of power.

Raila Odinga's party, the Orange Democratic Movement, (ODM), founded as a result of the government's defeat in the 2005 constitutional referendum, had carefully evaluated the deep-rooted sentiments of the citizenry. The ODM offered a package in its campaign platform that sought to address issues such as the gap between the rich and the poor; historical injustices on land, and the distribution of national resources. Kibaki, of the Party of National Unity (PNU), was generally perceived to be simply clinging to power, and protecting the independence landowner/-grabber clique, which was threatened by a new leadership in Raila and his party.

As I write, Kenya has already lost US\$3.7 billion in destroyed property and business disruption. Neighbouring countries such as Uganda and Rwanda experienced fuel shortages due to blocked highways in Kenya. Recognising the strategic importance of Kenya as a gateway to Uganda, South Sudan, Rwanda, Burundi and Congo, the international community, through the African Union and United Nations (UN), initiated mediation talks chaired by former UN Secretary-General Kofi Annan.

These talks have culminated in a new set of proposals, and an agreement, around a Prime Ministerial position with new powers for

Raila Odinga but the path to claiming stability and building robust institutions will be a long one.

The post-election violence appeared largely to be driven by unemployed youth, until it emerged that several communities had their own council of elders who were directing events in the background, citing historical reasons. It is increasingly becoming evident that the Kenyan crisis is not due to tribalism; it is due to flawed institutions that have, since colonial days, been manipulated by elites to achieve their own private goals. Kenyans are protesting against the politics of exclusion, regional and income inequality, and a system that makes it easier for a few to amass wealth at the expense of the many.

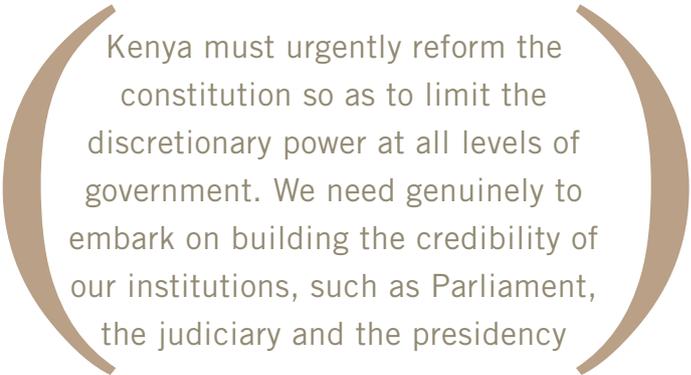
At independence, in order to consolidate power in his hands, Jomo Kenyatta manipulated the law and declared Kenya a republic in 1964. The president was empowered with enormous discretionary powers to appoint and fire all ministers and civil servants, and determine the life of Parliament. The late Jaramogi Odinga (the father of Raila Odinga), was on the receiving end in those years as one of Kenyatta's main opponents. Under Moi, Kenya saw the Amendment Act No 7 of 1982, which constitutionally transformed Kenya from a de facto one-party state into a de jure one-party state. Kenya's post-independence history is marked by the machinations of political elites, designed to scuttle dissent while maintaining status quo inherited from the British colonial government.

To many people in Africa, discussions of institutions and property rights appear simply to be the white man's backdoor attempt to legitimise what whites have grabbed, or planned to grab, from Africa. The Kenyan crisis serves as a clear indicator that a well-thought-out institutional framework is urgently needed if we are to save our country, and preserve it from future violent outbursts over election disputes. What Kenyans need urgently is a constitution driven by high suspicion of human intentions; such a document should be formulated with the express objective of turning the "devils" in humanity into "angels". It is disappointing to see Kenya burn while political elites that enjoy the protection of power argue for the sanctity of the existing constitution.

Kenya must urgently reform the constitution so as to limit the discretionary power at all levels of government. We need genuinely to embark on building the credibility of our institutions, such as Parliament, the judiciary and the presidency. The presidential tally dispute has buried in the sand the fact that members of parliament paid a "listening allowance" (a euphemism for voter bribery) during campaigns. The judiciary, for its part, is not only inefficient, but has been known to act on the whims of the executive – hence the Raila team's rejection of seeking court redress on the presidential election dispute. We need an

institutional framework that will save Kenya from the political and economic domination of one group over the other through the use of instruments of government power.

To stabilise Kenya, therefore, one must ensure that the grievances that fuelled post-election violence are addressed in a truth-and-justice process that can offer an opportunity for ventilation, compensation, and, possibly, forgiveness. A new Kenya, driven by market economics, where the talents of each determine how high one can climb in both the social and economic order, ought to be established. Presently, both business and social success have been largely dependent on political patronage, and many talented Kenyans feel suffocated by the system. A system that



Kenya must urgently reform the constitution so as to limit the discretionary power at all levels of government. We need genuinely to embark on building the credibility of our institutions, such as Parliament, the judiciary and the presidency

rewards talent will insulate Kenya from future upheavals, because the majority of youth will not necessarily focus on land as a source of livelihood.

The Mwai Kibaki and Raila Odinga dispute, in a country that is widely perceived to be stable, clearly indicates that one cannot invest in building a high-speed train and ignore the railway that ought to support such speed. The signing of a peace deal, brokered by Kofi Annan and the African Union, which will eventually lead to the enactment of the National Accord and Reconciliation Act 2008, is a good sign of getting rid of the imperial presidency in Kenya. However, Kenyan voters ought to remain vigilant, and ensure that checks on discretionary power are entrenched in the constitution. Strong institutions, and not faith in individuals, is what will save Kenya and Africa from turmoil.



James Shikwati is the Director of the Inter Region Economic Network and CEO of The African Executive, a business magazine, and a Young Global Leader of the World Economic Forum.



COMMONWEALTH DAY MONDAY 10th MARCH 2008

By Her Majesty The Queen

## A message from Her Majesty The Queen, Head of the Commonwealth

**Not for publication before: midnight local time or midnight GMT on 10 March 2008, whichever is the earlier.**

Last year, Commonwealth Heads of Government met in Uganda on the edge of Lake Victoria and agreed to an Action Plan for tackling climate change. It was an appropriate place to do so: from there, the waters of the River Nile begin a three-month journey to the Mediterranean.

The Nile, throughout history, has served humankind in many ways. But for all its impressive size and importance, this river is a fragile eco-system; and its vulnerability grows with the number of people dependant upon it, so that a single incident of pollution upstream may affect the lives of countless numbers downstream.

The example of the Nile illustrates many of the challenges facing the global environment as a whole which cannot alone sustain our lives as once it did. The competition for fresh water by a growing population is itself becoming a source of potential conflict. Our own attitudes to the environment, and the use we put it to, may have consequences for people on every continent and for every ocean and sea.

The impact of pollution falls unequally: it is often those who pollute the least – notably in the world's least-developed nations – who are closest to the razor's edge: most affected by the impact of climate change and least equipped to cope with it.

And it is important to remember that the environmental choices available in some countries may not be an option for others. In some parts of the world, for example, fossil fuels can be used more sparingly and buildings can be made of more efficient, sustainable materials; but it is far harder to expect someone to adapt if he or she relies on the trees of a local forest for fuel, shelter and livelihood. If we recognise the interests and needs of the people who are most affected, we can work with them to bring about lasting change. Happily, this approach has always been a strength of the Commonwealth, and awareness of environmental issues is now widespread, with a determination that future generations should enjoy clean air, sufficient fresh water and energy without risking damage to the planet. Few are more aware or energetic in confronting climate change than young people, and we should support them.

In the Commonwealth, governments, businesses, communities and individuals should each strive to match words and good intentions with deeds. Every contribution has its part to play. Whatever we do, wherever we live, our actions in defence of the environment can have a real and positive effect upon the lives of others, today and into the future.

**ELIZABETH R**  
10 March 2008



A close-up portrait of Paul Boateng, a man with short dark hair, smiling warmly. He is wearing a dark suit jacket, a light blue shirt, and a patterned tie. The background is a plain, light color.

United Kingdom High  
Commissioner Paul Boateng  
delivered the Queen's  
Commonwealth Day message  
at an inter-denominational  
service at St. George's  
Cathedral. Deputy Minister  
of Foreign Affairs Sue  
van der Merwe delivered  
President Mbeki's Message.

# Message of President Thabo Mbeki

Commonwealth Day: Monday March 10 2008

Each year when we celebrate Commonwealth Day, we strive to promote understanding of an important global issue. Our theme for 2008 is "The Environment: Our Future". This was agreed at the last Heads of Government Meeting, held in Uganda, and incorporated in the Commonwealth Lake Victoria Climate Change Action Plan.

The environment is central to life itself and is linked to such issues as climate change, sustaining biodiversity and conserving water resources. For our survival we rely on our soil resources for agriculture, on our fish resources for food, on our biodiversity for tourism, on herbs and medicinal plants for health care, to cite but a few examples.

Environmental degradation poses a threat to all humanity, but has the most adverse impact on the poorest of the poor. The national economies of African

countries rely mainly on agriculture and on extraction of mineral and biological resources. On our continent, Africa, better environmental management is not just a matter of preserving our natural heritage. It is a matter of survival.

Climate variations already pose a serious threat to livelihoods and economic development in much of our continent, and are likely to be aggravated by climate change over the next few decades. Along with issues such as negative elements of globalisation, conflict and instability, and the burden of disease, environmental degradation is one of the major factors threatening the fragile progress in economic, social, and political development that many African countries have achieved over the past few decades.

What is needed now, and very urgently, is respect for the ecological processes that have made the planet our home. These processes shape the climate,



This year's Commonwealth Day emphasises the significant challenges confronted by developing and developed countries in combating climate change.

cleanse the air and water, regulate water flows, recycle essential elements, regenerate the soil and enable ecosystems to renew themselves, giving all humanity the possibility to achieve sustainable utilisation of nature's biodiversity.

Together with raising awareness of the vulnerability of these processes, we also need to educate ourselves to use renewable resources such cultivated land, wild and domesticated animal and plant species, forests, rangelands, and the marine and freshwater ecosystems in a sustainable manner:

The depletion of non-renewable resources like minerals, oil, gas and coal must also be avoided. Their life must be extended for the benefit of future generations, while we also develop and use the necessary technologies to address the challenge of greenhouse-gas emissions.

Recycling of used materials, more economic use of our resources and greater utilisation of renewable substitutes must constitute an important part of our armoury of responses.

All these interventions are essential if the earth is to sustain billions more people in the future, continuing to give all humanity the possibility to enjoy a decent and improving quality of life.

Humanity confronts the twin challenges of defeating the scourge of poverty and underdevelopment that continues to

afflict billions in the countries of the South, and modifying life styles in the countries of the North, to reduce and eliminate the threat to the environment.

The world community of nations has agreed that all of us have a shared but differentiated responsibility to protect the environment. While we sustain and accelerate the advance against poverty in the countries of the South, and continue to improve the standard of living in the countries of the North, we must, together, continuously address the challenge of the protection of the environment.

We in the Commonwealth can make a vital contribution to the achievement of the urgent goals encapsulated in the theme –“The Environment: Our Future” – if we adopt and implement policies that respond to this task practically.

What we do must make the unequivocal statement that we are determined that Planet Earth will, forever, remain a place of domicile for the human species and all other animal and plant life which is our neighbour in the common habitat.

Our celebration of Commonwealth Day 2008 will achieve real meaning only if, on this day, we renew our pledge that we will, at all times, act in a manner that says – to guarantee our future, we will protect the environment!



Images in this article © Russell Roberts

Open Society Foundation Launch

# Changing times, and time for change

An Open Society Foundation South Africa panel discussion held to launch of a series of publications on aspects of democracy suggested that the power shift from Thabo Mbeki to Jacob Zuma may signal the breaking up of a variety of political logjams.

The Open Society Foundation for South Africa (OSF-SA) launched a series of publications late last year with a panel discussion on current South African issues. Opening the proceedings, Zohra Dawood, Executive Director of OSF-SA, named the foundation's partners in the project as the Open Society Institute and its Africa Governance Monitoring and Advocacy Project, and listed the publications as: South Africa: democracy and public participation; South Africa: effective public service delivery; The Promotion of Access to Information Act: a best practice handbook for information officers and requesters; and Meeting their mandates: a critical analysis of South African media statutory bodies. Aryeh Neier, President of the Open Society Institute, and Dr Ozias Tungwarara, Director of AfriMAP, represented the co-hosts. The discussion was chaired by Mail & Guardian editor Ferial Haffajee, and the speakers were Dr Frederick van Zyl Slabbert, who addressed the country's need for electoral reform; Dr Xolela Mangcu, who talked about the implications of the current changes in the ANC power structure; and Justice Malala, who focused on the SABC in commenting about the state of the media in South Africa today. What follows is edited extracts from the speakers' main addresses.

Top:  
Aryeh Neier: President, Open Society Institute

Bottom:  
Columnist and Political Analyst Justice Malala

## Van Zyl Slabbert: the message from Khutsong

Is there a need for electoral reform? My short answer is yes. But I'm not alone in thinking this. When the Constitutional Court certified the Constitution in 1996 and they came to the clauses referring to an electoral system, they said, we can't finalise this now. There was already a suggestion that the closed-list proportional system was a temporary arrangement.

When the Minister of Home Affairs suggested in 2001 that a Cabinet committee be appointed to look at electoral reform, I was asked to chair that committee. We were only approved in 2002, and we tabled our report in 2003. We had a majority report and a minority report. The minority report supported the existing electoral system, the one we've got at the moment. The majority report said it was inadequate; we need a new electoral system, a combination of a constituency-based and a proportional system.

When one mentions a constituency-based system, people tend to think one is talking about a "first past the post", Westminster system. We actually suggested that you use existing municipal and provincial boundaries, and divide the country up into approximately 70 constituency areas, and that, depending on their population, they should elect not less than three and not more than seven members of parliament (MPs), who had to come from the constituencies that voted for them. That accounted for about three-quarters of the MPs. The other 100, we said, could come from a proportional representation (PR) system that would make provision for special groups, the disabled, women, whatever they felt was necessary, so that you would have special-interest lobbies locked into Parliament from a PR system. The majority report was duly sent to Cabinet, and I'm still waiting for Cabinet to acknowledge that they received it.

We were insistent on moving towards some form of constituency system because we anticipated what we see now, the increasing sense of powerlessness and apathy of the ordinary voter when it comes to Parliamentary representation. They don't know who to call to account, they don't know who to ask to come and talk to them, because they don't know who their MPs are. They know the ANC have tried, in the post-electoral situation, to allocate constituencies to certain MPs, but this has no legislative authority, and some are more diligent than others.

I think this is a very, very important shortcoming. You can see the signs of it in the kind of disturbances we've seen at Matatiele and Khutsong. I've read the report of the Centre for Development Enterprises on those disturbances, which flared into violence, and the common theme that emerges is that the voters





felt disempowered, they felt that nobody really cared about them as far as service delivery was concerned, and they didn't know what to do about it. They didn't know how to get to the people who would have to be responsible, and it's in this sense that I believe some form of constituency representation is important.

I feel very strongly that there should be a committee appointed, again by Parliament, consisting of all parties, to investigate the reform to the electoral system. Will it happen? I doubt it will happen before the next election, which is 2009. Maybe Jacob Zuma will introduce a new electoral system. Who knows?

### **Xolela Mangcu: the power of disciplined rage**

I think that we have come to the end, or to the failure, of a particular political and epistemological model that has informed how we think about politics, democracy and development in this country – an approach that I could sum up as technocratic, consumerist and centralised around the President.

Part of the problem with it, in my view, was the political culture that it brings, where a group of people in government see themselves saviours of the society, and look at the rest of the society as basically subservient to them, and they may not be questioned because they provide services to the people. And it seems to me that is what is under attack today.

My second point is that we are coming face to face, in my view, with the South Africa we've been trying all along push to the back of our minds. The day following the nominations for ANC president, a colleague said, "The nation is depressed." I said, it's either the nation is depressed or the nation is in babalas, that people were sitting up the whole night jubilating about the nominations. I think it's more the latter.

What this moment represents in many ways is that there are limits to power, to patronage, to state resources. And that's why I say it's one of the most exciting times in our history. The ANC that we don't know has methodically, over a period of time, mobilised effectively, away from the glare of the media, to embark on a mass process of what I could call disciplined rage against this paradigm of rule that has prevailed in this country.

My third point has to do with the response of the President to this mass rejection by his own party. On television, he said that he would fight until the end to protect his legacy, which in my view is a horrible legacy: HIV/AIDS, unemployment, poverty. There's something again that's classically Mbeki about that response; the denial of a reality, the fact that his own comrades were saying that "we don't want you as a leader". That denial

has characterised the politics of governance and the problems of service delivery over the past decade or so.

The paradox is that the response of the ANC is classically South African in many ways; a classically Mbeki denial of this political revolt, but a classically South African political revolt which centres on one principal, which is that you can never really take the people of this country for granted.

There is an opportunity here for South Africa to go back to the drawing board. I certainly hope that somebody like Zuma opens up a space, at least, for public dialogue on these issues of HIV/AIDS, education.

Zuma's challenge and threat to South Africa is the same as Thabo Mbeki presented, the question of power; of how individual leaders, who come to power on the basis of popular support, behave when they are in power. And we are prevented from engaging with these questions because we're talking about sex in the shower and all of that stuff.

Clearly, however, we're moving on from [the struggle] era of unanimity. The question, particularly for those of us who were in the liberation movement, is how you manage that. The great challenge facing our country now is not just matters of development, but matters of plurality and diversity, and how we begin to have a leadership that appreciates those things. We are at a point where we are really, in many ways, at the beginning of a search for new paradigms.

### **Justice Malala: the SABC as a public disservice broadcaster**

One of the [launched] books talks about whether the SABC and three other statutory bodies in media are fulfilling their mandate. It says:

"Consensus was reached that in a media context, public mandate refers to a service that is committed to provision of access to all, impartial trustworthy content, information that is free of political and commercial pressures."

I think that the SABC is not just not meeting its public mandate, I think the SABC has been stolen. And I focus on the SABC because it is the one body that touches all of us, and belongs to all of us.

The SABC news department is completely and totally in the grip of President Mbeki and those who support him. Let's look at the track record of the SABC. Just two months ago a businesswoman [Gloria Serobe] who has done incredibly well in our country appeared before the Parliamentary communications committee to be interviewed for an SABC



The OSF-SA launch at Constitution Hill reflected critically on a variety of core components of South Africa's efforts to build an Open Society.

Board position. She claimed that she did not know who nominated her. It turns out that she was nominated by Louis du Plooy, who works for the Minister in the Office of the President, Essop Pahad. I cannot believe that the Minister in the Office of the President did not know that this person would be nominated by one of his employees. And it's part of a trend that we have seen with the SABC Board, where it's packed with people who enjoy President Mbeki's patronage, people who will defend him absolutely to the death.

Another example: Manto Tshabalala-Msimang was exposed by the Sunday Times as a thief and a drunk. The SABC pulled out of the South African National Editors Forum (SANEF) because it protested against that story. SABC CEO Dali Mpofu said:

"Even less are we prepared to associate with the enemies of our freedom and our people. We cannot remain quiet while our mothers and our democratically chosen leaders are stripped naked for the sole reason of selling newspapers."

Mr Mpofu was at the ANC Policy Conference in June and his accreditation said that he was a deployed cadre of the ANC. Mr Mpofu is a shareholder in an empowerment company which owns 15% of Deutsche Bank. The person who put that deal together is Martin Kingston. Kingston is married

to Pulane Kingston, the daughter of Health Minister Manto Tshabalala-Msimang.

There is no doubt in my mind that the request to have the SABC do everything in its power, firstly, not to report, because it did not report at all on Manto Tshabalala-Msimang, but to pull out of SANEF and fight any other media that has reported on this story, came from the Union Buildings.

You'll remember that the SABC did not show the Deputy President being booed in KwaZulu-Natal in 2005. They claimed that they did not have footage. E-TV showed footage of the cameraman filming the booing, and they said they didn't have it. You will all know about the Thabo Mbeki documentary that was not shown on SABC, and then was shown, and then was not shown, and was being pulled this way and that. The examples are many. There are other issues we could talk about, in the print media, but South Africans are silent when a major institution that belongs to all of us is not just under threat, it's been taken over. And I think that's something that we all need to confront.

Generally I think that the media is buoyant in South Africa. I think that there are warning lights, but I don't think we're at a crisis level yet. I think on the SABC front we're way past crisis.



By Jody Kollapen

# Transcending our blackness and our whiteness

If we are ever to be united in our diversity, it may be time now to go back to the drawing board, and design a future based on a common understanding of the past.

A series of events over the past few weeks, all underpinned by the common denominator of race, again raised fundamental questions about how the highly acclaimed “rainbow nation” has, 14 years into democracy, internalised the constitutional imperative of a nation “united in our diversity”. The shooting of four black civilians by a white youth in the community of Skielik, the production of a racist video by students of the University of the Free State in protest against integration, the decision by the Forum for Black Journalists (FBJ) to exclude white journalists from a briefing by African National Congress head Jacob Zuma, and the head of the Local Organising Committee of the 2010 World Cup berating a journalist and urging him to “stop thinking like a k\*\*\*\*\*” have all generated spirited public debate, and the diversity of views and opinions suggest that these are not just the fault lines that an ordinary society experiences, but rather deeply indicative of a nation very much shaped and divided by race.

What is evident is that, while the Constitution represented a resounding repudiation of apartheid and its race-obsessed policies, the challenge of confronting and dealing with



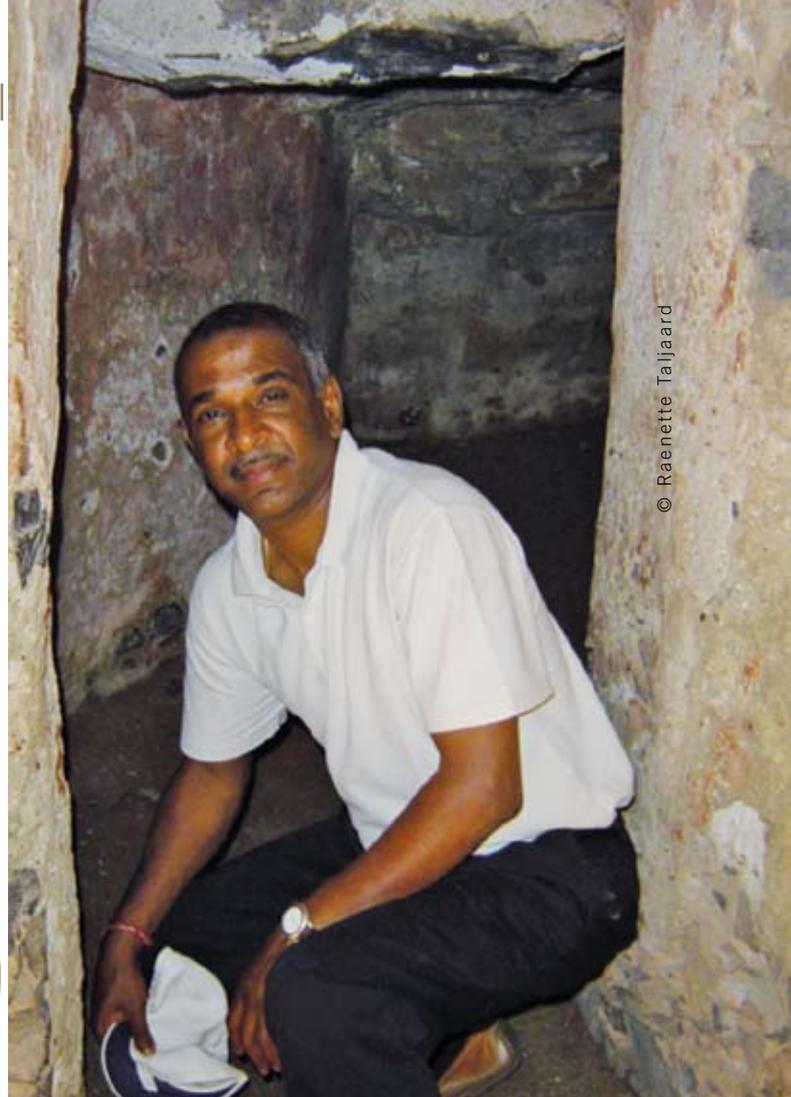
racism will require processes outside the limitations of the law, and shaped by an honest understanding of our shared but divided history.

It has been pointed out that the youths involved in both the Skielik and the Free State incidents are the children of democracy and not of apartheid, having lived for most of their formative years in a democratic society, and that the expressed need to have a

What is evident is that ... the challenge of confronting and dealing with racism will require processes outside the limitations of the law, and shaped by an honest understanding of our shared but divided history

racially exclusive organisation such as the FBJ may raise questions of whether deeply ingrained racial identities will mean that we are destined to forever be a balkanised society, if not physically, then certainly in our consciousness – or whether the vision of a society united in our diversity is possible at all. While we have made good progress over the years in consolidating our democracy, the frequency and the regularity of incidents that have race at their epicentre must suggest that race continues to shape and define, in substantial, but largely emotional and irrational, terms how we think and act.

We have been too glib, and perhaps romantic, in our approach to dealing with our past and setting the framework for the future. The Truth and Reconciliation Commission (TRC) was meant to be the vehicle that would advance the reconciliation project, and while the work done was admirable, in reality the discussion of the past was one confined in the main to the political actors, the security establishment, and a selection of individuals who were defined as being the victims of



gross human-rights violations. In addition, the focus was largely on conduct that constituted a crime, as opposed to conduct that resulted in social injustice and social destruction. Thus we examined murders, abduction and torture (correctly so), but not enough time was spent on examining issues such as forced removals; land dispossession; access to education, finances and skills; and the destruction of the family and community structures of black people, all of which shaped the substantial fault-lines and inequalities that confronted us in 1994. It was certainly convenient for many to see apartheid as the excesses of the security establishment, rather than as a systemic and sophisticated political, social and economic system based on a hierarchy of humanity and supported by the large majority of whites who were also its beneficiaries.

There was accordingly no space created for ordinary white South Africans to reflect on their role during apartheid, active or passive, and how they would contribute towards the building of a new society; there was no meaningful discussion on how we would deal with the inequalities left after the end of apartheid, and

South African Human Rights Commission Chair Jody Kollapen on a recent visit to Goree Island in Dakar Senegal in a holding cell at the Slave Lodge.

how vital it was to ensure that transformation took place, not as an end in itself, but as an integral part of the reconciliation project.

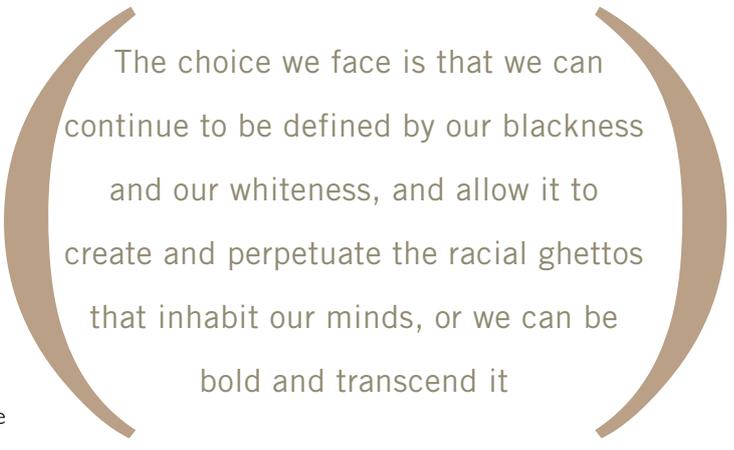
If anything, the post-94 era was characterised by a strong focus on reconciliation and on allaying the fears of white people. There was not sufficient attention paid to the imperatives of transformation, and putting quite firmly on the agenda the notion that reconciliation was never simply meant to be about black forgiveness, but also about the willingness of whites to embrace the necessity of transformation, to work towards giving effect to the imperative that South Africa “belonged to all who lived in it” – in essence, to share the land, to share the economy, and, importantly, to allow the space for a black majority, long denied and deprived, to assert their legitimate demands. Sadly this did not happen, and there was simply an undue focus on the limited notion of reconciliation as constituting forgiveness. The consequence of this was that reconciliation and transformation were seen as opposing imperatives instead of complementary, both necessary to secure and to advance a future based on common values.

And so, from the very outset, our democratic dispensation was characterised by very different expectations – white people in the main anxious about not losing what they had, while black people lived in hope of what the future would bring – “a better life for all”. And much since then has been about mediating these opposing feelings of fear and hope – the debates on land redistribution, employment equity, the developments in sport, name-changing and language policy are all key components of the need for, and part of, the agenda of transformation. Opponents of these measures call for a race-neutral society and argue that such measures militate against the reconciliation initiatives, while those who support them point out that reconciliation without transformation is simply shallow rhetoric. What this suggests is that we are quite far from organising and developing a loyalty to a common vision.

While we anguish about it, a useful starting point would be for South Africa to go back and pick up where the TRC ended, and start a discussion among ordinary South Africans that will enable us to at least have a common understanding of the past – that apartheid was a crime against humanity, that it extracted

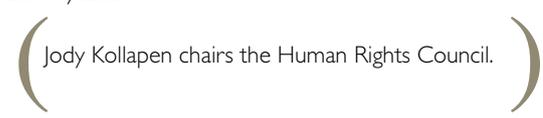
a devastating cost to millions of people, and that it would be appropriate for those who implemented and benefited from it to acknowledge properly the damage caused, apologise for it, and commit to being part of a process to deal with its legacy. This should not be done grudgingly or with conditions, but in the same spirit that Kevin Rudd, the Australian Prime Minister, offered a sincere, unconditional apology to the Aboriginal people in a manner that fully acknowledged and identified with the pain caused to them.

That has been missing from South Africa's dealing with its past, and it is important to start precisely there, not because we seek a better past or need to apportion guilt for it, but rather



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so that it can be an invitation to a future that is based on a set of common values whose history and context is not constantly in dispute. The choice we face is that we can continue to be defined by our blackness and our whiteness, and allow it to create and perpetuate the racial ghettos that inhabit our minds, or we can be bold and transcend it. To do the latter will require considerable introspection and a sense of honesty missing in large doses over the past 14 years.



Jody Kollapen chairs the Human Rights Council.



By Patrick Laurence

# Law and (the new) order

Arguments that our most powerful weapon against organised crime must go for the sake of greater police effectiveness bear little scrutiny. On the contrary, it looks as though vengeance rules, and the Scorpions will die to protect the powerful from independent investigation.

The post-Polokwane, Zuma-led African National Congress (ANC) has started its political life beset by a fundamental contradiction that has disturbing implications for the ANC and South Africans generally.

The disquieting connotations will become even graver if Jacob Zuma – who trounced Thabo Mbeki in their election contest for the ANC presidency at the ANC's 52nd national conference at the University of Limpopo, near Polokwane – becomes South Africa's president next year.

The contradiction lies in the juxtaposition of two developments in the closing stages of the Polokwane conference. The first is contained in Zuma's inaugural speech as the ANC's new president, in which he identified crime as a "counter-revolutionary force" and a threat to economic growth and social stability. The second is embedded in a resolution on peace and stability which states simply that the Directorate of Special Operations (DSO), aka the Scorpions, will be dissolved and that its

investigators will be relocated to the South African Police Service (SAPS).

It is a contradiction in terms for Zuma to identify crime as a major challenge in one breath, and in the next to sanction the dissolution of the Scorpions, post-apartheid South Africa's most successful law enforcement agency, particularly in relation to corruption and related crimes.

Zuma and his lieutenants in the ANC do not see the dissolution as contradictory to his stated objective of mobilising the nation against crime. They dignify it with seemingly laudable motives which, on closer inspection, are questionable, if not meretricious. Their rationale is misleading rather than informative.

Two official reasons are cited by leaders of the post-Polokwane ANC for the decision to dissolve the Scorpions: the need to regularise a purported constitutional contravention resulting from the establishment of the

South Africa's Scorpions struck fear into the hearts of organised crime in the public and private sector alike.



© Sowetan

Scorpions, and the necessity to strengthen the criminal justice system by establishing a single police force under the aegis of the ministry of safety and security.

The resolution relating to the Scorpions adopted at the Polokwane conference states: "The constitutional imperative that there should be a single police service should be implemented ... The Directorate of Special Operations (should therefore) be dissolved." The implication is that the dissolution of the Scorpions is indispensable to the fulfilment of a constitutional requirement, an interpretation that projects the incoming ANC leadership as guardians of the constitution.

But, as Judge Sisi Khampepe notes in the report of her commission of inquiry into the future of the Scorpions, the establishment of the Scorpions is not in contravention of the constitution. While clause 199 (1) of the constitution states that there should only be one defence force and one police service, it does not prohibit the establishment of supplementary or complementary law enforcement agencies, as the Constitutional Court made clear in a 2002 judgement on the matter.

Elucidating on the Constitutional Court judgement, Khampepe states inter alia that the relevant clause is an injunction for the amalgamation of the various police forces that existed under the previous government – the South African Police and the police forces of the putatively independent black states – into a single force.

Further extrapolation defines clause 199 (1) as an injunction for the unification of the multiplicity of police forces that existed under the ancient regime into the present SAPS, not a prohibition on the establishment of a specialist law enforcement agency cast in the mould of the Scorpions.

Two conclusions follow from the above exposition: firstly, that Zuma's advisors must have been aware of the Constitutional Court ruling; and, secondly, that they chose to ignore it in order to provide themselves with a quasi-legal reason for dissolving the Scorpions.

Another pseudo-legal reason has been offered in the past few months by Mathews Phosa, the ANC's new treasurer-general, and Mo Shaik, a member of the ANC's new national executive committee, which should be mentioned. They contend that the existence within the National Prosecuting Authority (NPA) – under whose auspices the Scorpions fall – contravenes the "separation of powers" doctrine. But this doctrine pertains to the executive, legislative and judicial components of government, whereas the policing, prosecutorial and prison functions all form part of the criminal justice system or, even more broadly, the judicial system.

On that note, two further points are in order: close co-operations between the prosecutorial and policing functions of government long preceded the formation of the Scorpions in 2001, while the possession by the NPA of prosecutorial and investigative powers did not – and does not – impinge on the right of alleged offenders to appear before open courts presided over by independent judicial officers sworn to uphold the rule of law.

The second official reason offered for the dissolution of the Scorpions – the need to strengthen the criminal justice system by integrating investigative officers from the Scorpions with those of the Organised Crime Unit of the SAPS – is not entirely devoid of authenticity. It is hard to see, however, how the criminal justice system will be strengthened by dismantling its most successful component. It runs counter to the wisdom of the colloquial maxim: "If it ain't broke, don't fix it."



It is, of course, theoretically possible that the relocation of the investigating arm of the Scorpions will strengthen the investigative capacity of the proposed new amalgamated SAPS unit. Whether the hypothetical improvement that the Scorpions could add to the proposed new unit will compensate for the loss to the criminal justice system of the Scorpions per se is doubtful, to say the least.

There is another potential problem, however: Many of the investigators in the Scorpions at present may turn down the offer of absorption into the SAPS, and seek employment in the plethora of private security companies or the security departments of the major corporations. If so, their considerable talents will be lost to, instead of employed in, the SAPS.

Business Against Crime (BAC), which was formed in 1995 to fulfil a request by former President Nelson Mandela for

There is another potential problem, however. Many of the investigators in the Scorpions at present may turn down the offer of absorption into the SAPS, and seek employment in the plethora of private security companies or the security departments of the major corporations

business to join the fight against crime, and which is today an active partner with government in the campaign to contain and reduce crime, is “fundamentally opposed” to the dissolution of the Scorpions and its incorporation into the SAPS.

One of the central reasons for BAC’s opposition is its conviction that the independence of the Scorpions is indispensable to its success in investigating corruption without, as the constitution puts it, fear, favour or prejudice. Noting that while the ANC’s Polokwane resolution refers to the dissolution of the Scorpions, President Thabo Mbeki talks of “restructuring” the criminal justice system, BAC argues that whatever changes are envisaged, and however they are packaged and labelled, the question at stake is whether the changes will heighten or diminish the power of the Scorpions to investigate crime.

It identifies three “objective tests” to determine the answer to the vital question:

whether the Scorpions will retain their existing prosecutorial and investigative skills;

whether the Scorpions will be able to operate as a cohesive unit without being dependent on the authority or resources of another institution; and

whether they will have the “independent capacity and the opportunity” to investigate corruption and crime at the highest echelons of society, including the most senior officials and ministers in government.

The answers to these questions are fairly obvious. They are: no, no again, and no for the third time.

No, the Scorpions will not possess their existing prosecutorial powers. No, the Scorpions will not be an independent cohesive unit, as, according to the Polokwane resolution, its investigative officers will be amalgamated into a new unit, with the Organised Crime Unit, in the SAPS, and therefore subject to the authority of the National Commissioner of Police. No, this unit will not have the capacity and opportunity to investigate corruption and crime at the highest level of authority, if the National Commissioner of Police vetoes the investigation.

It is, of course, common knowledge that National Police Commissioner, Jackie Selebi, has been indicted on charges of corruption, fraud and racketeering. It is common knowledge, too, that the Scorpions conducted the investigation into his alleged contraventions of the law, and obtained sufficient prima facie evidence against Selebi to arrest and charge him.

None of these steps would have been taken had the Scorpions not existed or if they had been a unit under the ultimate authority of Selebi.

Having questioned the validity of the official reasons advanced for the pending dissolution of the Scorpions – the Zuma-led ANC has set 30 June as the deadline – it is opportune to identify the real reason for their hostility.

The drive to dissolve the Scorpions is motivated by hostility towards the elite unit by leading members of the Zuma-led ANC, from Zuma downwards. The genesis of the enmity lies in the role the Scorpions played in investigating the financial probity of Zuma and in indicting him for corruption, as well as in their role in investigating Winnie Madikizela-Mandela, a former ANC Women’s League president, and Tony Yengeni, a former ANC chief whip in the National Assembly – both of whom were later convicted of fraud.

Another ANC luminary who was scrutinised by the Scorpions is Ngoako Ramatlhodi, a former premier of Limpopo, who was subsequently bypassed for promotion, presumably because of questions about his financial rectitude.

ANC President Jacob Zuma has been investigated and charged by the Scorpions for charges ranging from corruption to racketeering.

Moving a little down the hierarchy of power in the ANC, members embittered against the Scorpions include the parliamentarians who were investigated by the unit for fraud in the parliamentary “travelgate” scandal. Prominent among them is Nyami Boo, who led the charges against the Scorpions in the National Assembly.

The dislike of the Scorpions in the Zuma camp coalesced with animosity towards Mbeki, unsurprising given the widespread belief that Mbeki was using the Scorpions against his rivals in the ANC – the most prominent of whom was Zuma, whom he dismissed as national Deputy President in June 2005 after Zuma’s financial adviser and benefactor, Shabir Shaik, was convicted of corruption and fraud.

Another component of anti-Scorpion sentiment in the Zuma camp is the conviction that the unit had an anti-ANC bias, and was seeking to hobble the movement by discrediting its leaders. It is manifested in a recent observation by the newly elected ANC Secretary-General, Gwede Mantashe, who pointedly recalled that Gerrie Nel, who heads the Scorpions in Gauteng, is a former member of the police riot squad that was used against anti-apartheid demonstrators.

Countervailing views against these perceptions need to be brought into the equation.

The allegation that the Scorpions did the bidding of Mbeki is contradicted by their arrest and indictment of one of Mbeki’s prominent political allies, National Police Commissioner Selebi, notwithstanding Mbeki’s attempt to protect him by suspending the National Director of Prosecutions, Vusi Pikoli, after he obtained arrest and search warrants against Selebi.

Though they attracted a great deal of media attention, the investigations by the Scorpions into the suspected venality of ANC luminaries comprise only a small proportion of their overall activities since their formal establishment in 2001.

As noted by the SundayTimes in an article headlined “Unit struck terror into a long list of bad guys”, successful investigations and convictions by the Scorpions include:

- the conviction of some 200 people involved in urban terror (many of whom were members of the vigilante organisation People Against Gangsters and Drugs), taxi war and political violence;

- the arrest of about 2 220 syndicate chiefs and their lieutenants, many of whom were involved in the smuggling of highly addictive drugs; and



the apprehension and indictment of Glen Agliotti, a don of the South African “mafia”, for the murder of mining magnate Brett Kebble.

An observation by Penuell Maduna, a former Minister of Justice who presided over the Scorpions in the first few years of their existence, is worth quoting: the National Director of Prosecutions has to report to Parliament on the NPA, including the Scorpions, and the ANC-dominated National Assembly would surely have held him to account if the Scorpions were pursuing a vendetta against the ANC per se.

In conclusion, it is relevant to note that the Scorpions – modelled on the Federal Bureau of Investigation (FBI) in the United States, and whose initial recruits were trained by the FBI and Scotland Yard – were formed by Mbeki with a mandate to counter the threat of organised crime. The jury is still out, however, on whether Mbeki did his best to protect them against Zuma and his rampant legionnaires, or whether he merely cloaked his capitulation in respectable colours.

By Prof Kader Asmal

# Looking back, looking forward

Statement by Professor  
Kader Asmal MP on his  
retirement from Parliament  
National Assembly, Tuesday  
26 February 2008.

## Hon members, friends, comrades

You have done me a great honour in allowing me time to say a few words on my retirement from Parliament. I am one of a now dwindling band of parliamentarians who have been here since 1994 and the dawn of democracy in this country; I was also part of the world-wide anti-apartheid struggle inspired by my movement, the African National Congress, and the noble Freedom Charter.

It was a struggle that uniquely galvanised the international community. It was a struggle that united humanity, and mobilised the United Nations – a struggle that relied on the selfless support and sacrifice of the frontline states of southern Africa. It was invigorating and humbling to be part of that awakening of the conscience of the world to combat the apartheid crime against humanity.

I come too from that generation of which Judge (then Professor) Albie Sachs wrote: "If a constitution is the autobiography of a nation, then we are the privileged generation that will do the writing".

The book we produced is here and everywhere: the guarantor of our freedom.

It is therefore a real challenge to know what to say to do justice to this occasion – though I can assure you that these will not be the last words you will hear from me. When the famous Labour MP Tony Benn retired from the House



Professor Kader Asmal, a veteran anti-apartheid campaigner, human rights activist and legendary Parliamentarian and Minister bid the National Assembly farewell to continue to practice politics and activism beyond the hallowed halls of the House.

of Commons after 51 years, he quoted his wife as saying that now he would “have more time for politics”.

Perhaps Louise, my own wife and partner of 46 years, would say something similar. Certainly, today marks not the end of the story, but the start of a new chapter. I shall not be leaving public life, because politics is in my blood and because my whole life has been one long political journey where the public and private have been inseparable.

Departing members are allowed to give themselves one final consolation, a valedictory speech – an occasion for some reflection, some explanation, much self-indulgence and a little ancestor worship.

My journey began over 60 years ago with my relationship with Albert Luthuli and was inspired by his vision of a free, non-racial South Africa with justice and equal rights for all. It was he who drew my attention to the struggle and indivisibility of human rights after I had seen the practices and the merciless cruelty of the Nazis in the concentration camps – inflicted on Jews, Slavs, communists, homosexuals alike – in a supposedly civilised country. It was then that I understood the brave words of Dietrich Bonhoeffer:

Not to speak is to speak  
Not to act is to act.

A school teacher to start with – some say rudely that I never stopped teaching – and afterwards a law student, I discovered law as an instrument of liberation; it was exhilarating. As a lecturer in Dublin I used the new international law to advance the world-wide anti-apartheid struggle. The years of exile were long, but the friendships made in that struggle, the comrades who visited Dublin to assist in raising awareness, the solidarity of the Irish people (who taught me that you must never fight over water – other liquids are different) made it all worthwhile. Academic life, family life, my involvement in the ANC, the Irish Anti-Apartheid Movement and the Irish Council for Civil Liberties (the last two of which I helped found) made a rich tapestry. The roll-call of those in Ireland who helped extended from former Irish President Mary Robinson and Nobel Peace Prize winner John Hume, to trade unionists such as Mary Manning; those from southern Africa whom we invited to further the anti-apartheid campaigns included Amilcar Cabral, Oliver Tambo, Sam Nujoma, Joe Slovo, Thabo Mbeki, Ruth First, and Ronald Segal. And of course Nelson

During the Farewell debate to honor Prof Kader Asmal tributes poured in from across the political spectrum, memorable tributes include ones by former DA Leader Tony Leon and Finance Minister Trevor Manuel.

Mandela, the icon of our struggle. They have given me a life-long commitment to the ideals of self-determination, freedom, justice, human dignity, and equal rights for all.

Those ideals find expression in the Constitution of our country. As Chief Justice Mohamed explained in 1995, it is no ordinary constitution:

"In some countries the Constitution only formalises, in a legal instrument, a historical consensus of values and aspirations evolved incrementally from a stable and unbroken past to accommodate the needs of the future. The South African Constitution is different: it retains from the past only what is defensible and represents a decisive break from, and a ringing rejection of, that part of the past which is disgracefully racist, authoritarian, insular and repressive, and a vigorous identification of and commitment to a democratic, universalist, caring and aspirationally egalitarian ethos expressly articulated in the Constitution."

Ten years as a Minister taking part in one of the most creative acts of reconstruction the world has seen was incredibly rewarding. What we have achieved together cannot be expunged from memory because of our current difficulties.

Our Constitution is not a dead document. It applies to all of us today, it urges us to care for all who live in our country, and to work towards a better life for all. It is our collective pledge. In other words, it embodies values which this House must respect, and which permeate the laws we pass and indeed every aspect of our lives. It is a living instrument that enlarges our freedoms and restricts our power to act arbitrarily.

We may not like these restrictions. We may be tempted to take short cuts, to ride roughshod over others, in order to reach the goals we seek. I must confess that as a Minister I was sometimes impatient with the processes of consultation and the parliamentary committee meetings. Nevertheless, such democratic processes are essential to our progress. We cannot afford to manoeuvre around the human rights our Constitution has laid down. We must not attack the separation of powers laid down in our Constitution. And we need to follow its spirit, not only the letter.

Human rights are never static; they are always dynamic. They are never completely won, just as they are never completely lost. In our defence of them, we too cannot afford to stand still. We must never allow complacency of the sort that has betrayed the people of Kenya. We need constantly to seek to improve how and by what means we can promote and protect the rights set out in our own Bill of Rights. This is the challenge that Parliament faces.



Our democracy is young, and still fragile. This places a heavy burden on you in Parliament to ensure that the rule of law prevails and that government and its agents govern under the law as laid down in the Constitution – whether in relation to immigrants or in combating terrorism.

This body – this Parliament – has a crucial role to play. For human rights to retain their primacy in our new democracy, they must continue to be championed by the Members of our National Assembly.

For human rights to be progressively realised – the enjoinder that is attached by the Constitution to the array of socio-economic rights that our Bill of Rights enshrines – government must actively pursue them, and Portfolio Committees must insist on Departments accounting to them on delivery.

Under our Constitution, we have established a series of “Chapter Nine” bodies aimed at promoting, enlarging and defending different aspects of democracy and human rights. I was very proud to be asked to chair a body to look at the progress and efficiency of these bodies. Parliament will, I hope, set aside some time to debate the questions that our report raised, and to decide whether or not our recommendations should be implemented.

These are countervailing bodies. So is the press. We are sometimes too sensitive to criticism – in the press or by civil society. Obviously, we are entitled to make sharp responses to such criticism. I will confess to occasionally being annoyed as any of you at misconceived, inaccurate or tendentious criticism, and I have voiced my annoyance, sometimes even anger. However, what would be wrong would be any attempt at intimidation of the press, or any threat to curtail press freedom – not because the Constitution protects press freedom but because it is a vital element of our democracy. We must cherish it.

We should have nothing to fear from being robust in our pursuit of oversight and accountability. And I speak now to the members of my own party. It is as much in our interests as the ruling party as anyone else to find constructive ways to engage with the executive to find solutions and to ensure that we are responding to the precise needs and priorities of the most vulnerable members of our society.

I look forward to the next chapter of my political journey. I will continue to strive to offer a public voice, in public spaces – and remain always committed to the realisation of human rights, to the rule of law, and in support of those institutions, like the judiciary, whose strength, independence and integrity are indispensable to a modern, constitutional democracy. And always remembering the

It is as much in our interests as the ruling party as anyone else to find constructive ways to engage with the executive to find solutions and to ensure that we are responding to the precise needs and priorities of the most vulnerable members of our society

words of Nelson Mandela uttered over 50 years ago: ordinary people cannot be treated as victims, for “they can rise from being the object of history to becoming the subject of history” by “becoming the conscious creators of [our] own history”! This is a wonderful challenge to us. It was the dream of freedom that kept our hopes alive.

But:

History says, Don't hope  
On this side of the grave ...

Seamus Heaney's tribute to Nelson Mandela is a tribute to hope, as he concludes:

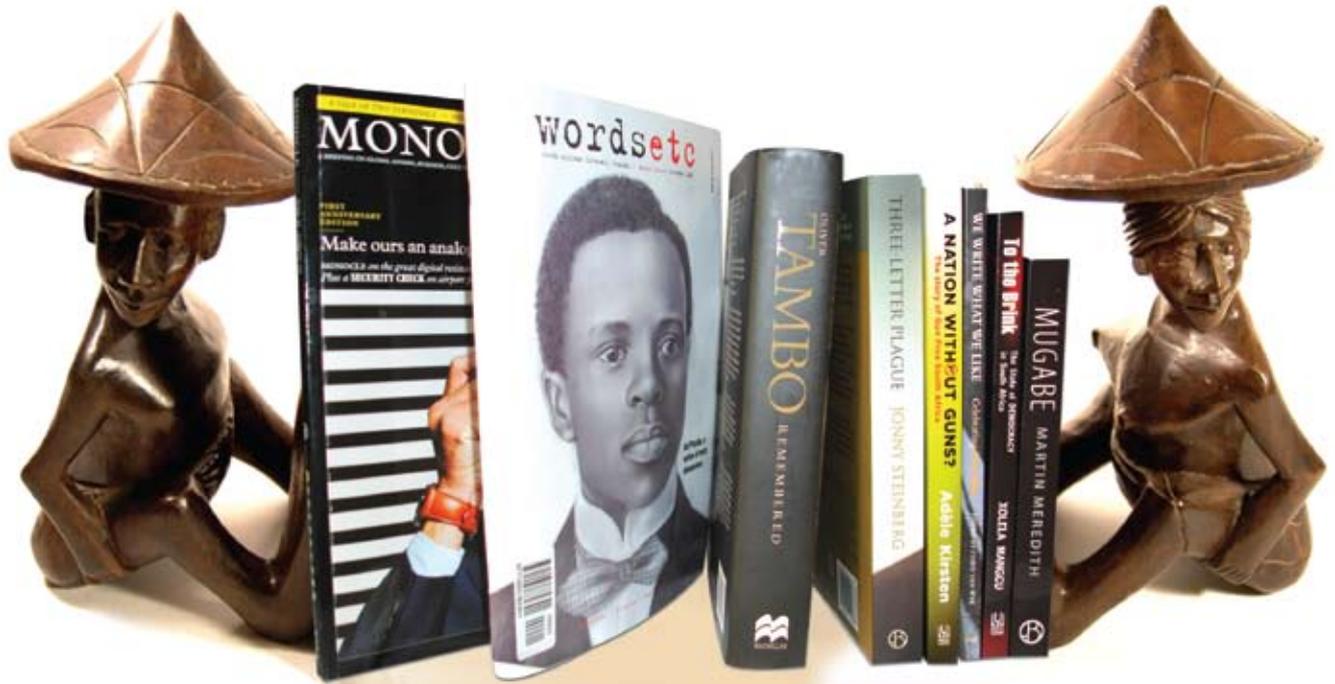
### **But then, once in a lifetime**

The longed for tidal wave  
Of justice can rise up  
And hope and history rhyme.

### **Honourable members, continue hoping.**

I shall miss you, honourable members, but I shall not forget you, the tribunes of our people. Nor shall I forget the many unsung heroes and heroines of our struggle, both in this country and in Britain and Ireland, with whom I have worked. I owe a huge debt of gratitude to them. I must also thank the staff who supported me when I was first Minister of Water Affairs and Forestry, and then Minister of Education, as well as the parliamentary staff; they have shown an extraordinary degree of professionalism and loyalty. Many of them are in the gallery.

Ndiza kunikhumbula nonke, Malungu aBekekileyo, andi sokuze ndinilibale. Kaloku sizizicaka zabantu base Mzantsi Afrika. That's it then. Shalom, salaam, salani kahle, salani kakuhle, salahantle, totsien, goodbye.



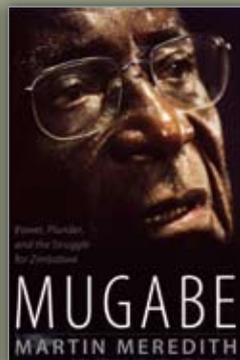
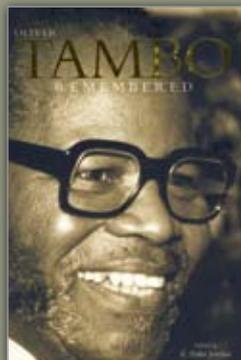
# FOCUS BOOK CORNER

## **Oliver Tambo Remembered**

Edited by Z. Pallo Jordan

ISBN 9781770100756

*Oliver Tambo Remembered* is a fascinating collection of essays that marks what would have been the legendary leader's 90th birthday. Contributions written by President Thabo Mbeki, Nelson Mandela and various acquaintances, journalists and comrades provide great insight into the man and the leader.



## **Mugabe: Power, Plunder and the Struggle for Zimbabwe**

By Martin Meredith

ISBN 9781868422913

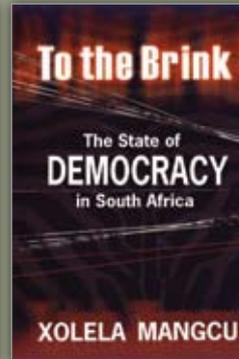
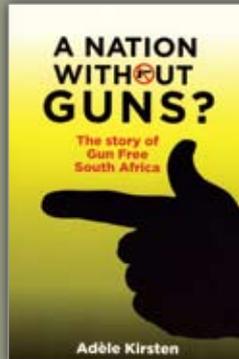
Martin Meredith's books have been described as 'essential guides to anyone seeking a closer understanding of the complexities of Africa'. This latest is no exception as it documents the journey from revolutionary people's hero and to tyrant at a particularly relevant time.

### **A Nation Without Guns?**

**By Adèle Kirsten**

ISBN 9781869141356

The issue of guns in society has long been a contentious one. *A Nation Without Guns* documents the rise of the NGO Gun Free South Africa (GFSA). Regardless of one's stance on the issue, Kirsten provides an in-depth and well-researched account of the NGO and its cause that, according to activist Zackie Achmat, holds many valuable lessons.



### **To the Brink: The State of Democracy in South Africa.**

**By Xolela Mangcu**

ISBN 9781869141370

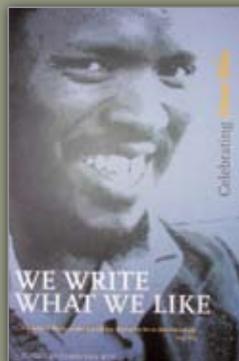
The distinguished academic Xolela Mangcu tackles the 'racial nativism' that has developed in our political climate. Never one to mince words, Mangcu provides an intriguing argument that takes into account recent events at Polokwane and envisions a future with Jacob Zuma as president.

### **We Write What We Like**

**Edited by Chris van Wyk**

ISBN 9781868144648

30 years after Steve Biko's tragic death, and in a free society only dreamt of by Biko, *We Write What We Like* offers a number of perspectives on the writer who has come to symbolise an entire generation. Each of the diverse essays, written by friends, followers and fellow activists, illuminates his timeless and inspiring message, and illustrates the impact his words have had on many.



### **words etc**

December 2007

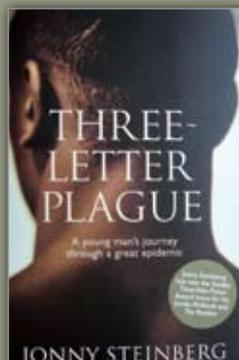
The launch issue of a new quarterly South African literary journal has as its core a peculiar fascination with language familiar to many. Articles on Sol Plaatje and Ingrid Jonker are particularly engaging, as is a short story by Chika Unigwe. Claiming as its inspiration Nat Nakasa's *The New Classic*, one only hopes that this journal has a happier future among like-minded bibliophiles.

### **Three-Letter Plague**

**By Johnny Steinberg**

ISBN 9781868422883

The award-winning author of *Midlands* and *The Number* tackles the ramifications of HIV and AIDS in a novel that will no doubt become a classic. Without eroding the complexities of the crisis or side-stepping difficult questions, Steinberg examines the issue to moving effect.



### **Monocle**

March 2008 Issue 11 Vol.02

This first anniversary edition of the international briefing on global affairs, business, culture and design leapfrogs across the world with ease, from Africans in China to airport security in the UK to the food crisis in Pakistan. A luxurious approach to quality journalism makes for another fascinating issue.

## Liberals, Marxists, and Nationalists

*Competing Interpretations  
of South African History*

By Merle Lipton

## Liberals, Marxists, and Nationalists: competing interpretations of South African history

Macmillan 2007, ISBN 978023060059

Historians, as Schiller remarked, are prophets with their face turned backward. This applies well to apartheid South Africa, where historians used rival interpretations of the past not only to legitimise or criticise the status quo, but also to justify contending visions of the future.

The future is now here; history, following Francis Fukuyama, has supposedly ended, and in the mid-90s the outcome seemed to be a consensus, forged rather than forced, about the legitimacy and sustainability of liberal democratic institutions in South Africa. That accord, along with a commitment to social justice, is expressed in the Constitution of 1996.

Yet, in the preceding few decades, liberals, Marxists and nationalists had slugged it out on the ideological battlefield, using history as body armour. Merle Lipton revisits the sites of their struggles, and explores competing scholarly accounts of the origins, evolution and decline of apartheid.

Her interest lies both in these substantive historical issues and in the role of historians in shaping public perceptions of the past. So, in addition to assessing the relative importance, in ending apartheid, of armed struggle, mass action, economic sanctions, and pressure by business, Lipton focuses on the broader social impact of debate among historians. She examines the effect of historiographical debates on attitudes, social relations and politics in post-apartheid South Africa. She also addresses the extent to which these disputes were shaped by contestation over "facts", as opposed to different theoretical viewpoints, political allegiances and professional loyalties.

Herein lies the crux. Lipton was a pioneer among those liberal historians who, from the mid-1960s, argued that economic growth was placing strain on apartheid, and would eventually undermine it completely. In the early 1970s, a new generation of neo-Marxist scholars, or "revisionists", claimed to turn this orthodoxy on its head by stressing the collaborative relationship between capitalism and apartheid. They also claimed that liberals downplayed the importance of economic factors and class interests in explaining racial oppression, and misunderstood apartheid as a hangover from earlier conflicts on the Cape frontier, when in fact it was a product of industrial capitalism. Lipton catalogues and refutes the charges.

By the mid-1980s, the revisionists, by sheer force of numbers, seemed to have prevailed. Their ideas became hegemonic, and liberals were relegated to the sidelines. This left many liberals isolated and bruised and, later, resentful, when in the 1990s some revisionists appeared seamlessly to adopt, without acknowledgment in Lipton's view, elements of the so-called "conventional liberal version" of history.

General readers of this book will find some of the historiographical arguments arcane. Professional historians might prefer not to see old wounds picked at again. Yet, the book is timely and provocative.

Above all, at a time when there are flickers of resurgent ethnicism; when African nationalism still has a purchase on sections of the ruling party; and when the government's alliance partners continue to cling to an outdated and unreconstructed form of Marxism; Lipton reminds us of the importance of a liberal interpretation of history in safeguarding liberty in the future.



CYRIL  
**RAMAPHOSA**  
 ANTHONY BUTLER

By Anthony Butler

## Cyril Ramaphosa

Jacana Media 2007, ISBN 978-1-77009-370-6

It is not often that a reviewer has the privilege to have seen the subject of a biographer function in the political arena at close-range. I had this enormous privilege in various capacities in Parliament in the early 1990s during South Africa's transition years and the key years of the Constitutional Assembly. I will never forget the sheer electricity when Cyril Ramaphosa, a key architect of the Constitutional bedrock of our society, announced that a breakthrough had been reached on the language and education clauses and that a new agreement had been reached and a new Constitution laboriously birthed. Equally impressively, Ramaphosa chaired the Black Economic Empowerment Commission that made key recommendations about this new policy and, again, the sheer ability and range of the subject of this biography was on display.

Butler's biography draws a complex and compelling realistic sketch of his subject matter. Whilst there are crucial factual errors, such as the suggestion that van Zyl Slabbert's Dakar trip was somehow orchestrated by intelligence structures, the biography remains a compelling one.

Though Butler's biography was not authorized, Ramaphosa spoke in complimentary terms about the tome when it was launched on the 31st of January at the Linder Auditorium in Johannesburg stating he was impressed with the 'quality, eloquence and integrity' of Butler's tome and how it records 'the times we've lived in'.

What emerges from this book is a highly-controlled and intensely private man of significant abilities who can ably deal with the cut and thrust of politics but

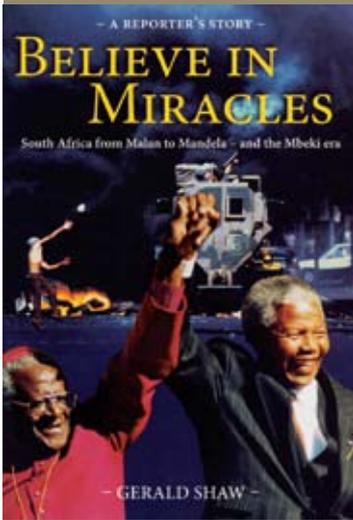
may not relish the uglier moments of what can occur in the arena of politics. This may explain his reticence pre-Polokwane to throw his hat into an increasingly messy squabble between President Thabo Mbeki and Jacob Zuma but does not exclude future leadership if the post-Polokwane winds continue to buffet the ANC so severely.

A memorable moment during the pre-Polokwane contest was the Rondebosch branch of the ANC's backing of Ramaphosa for the ANC's top spot.

The making of Ramaphosa, his powerful sense of self as a young child, his involvement in the Black Consciousness movement, the defining moment of his solitary confinement, his legendary organizing skills and politically significant leadership role in the National Union of Mineworkers (NUM) as well as his remarkable role in negotiating with the National Party are memorably recorded and interwoven into a compellingly consistent path of leadership. It is the sheer range and variety of Cyril Ramaphosa's leadership roles that shine through the pages of this book.

His re-election to the ANC's NEC at Polokwane and his inclusion in an ANC NEC Committee that is looking at the arms deal of the late 1990s keeps him in the heartbeat of political life and his path may yet become another chapter in our history to compliment the significant contribution he has made to craft a constitutional vision for his country.

The manner in which this book is flying off the shelves tells us something about South Africans' curiosity about this son of Soweto - a man they rightly believe possesses significant leadership talents.



By Gerald Shaw

## Gerald Shaw: Believe in Miracles

Ampersand Press 2007, ISBN 1919760709

The apartheid order is best characterised as an authoritarian, rather than totalitarian, system. The distinction highlights the total suppression of dissent in totalitarian fascism and Stalinism, in contrast to the restricted tolerance of opposition in apartheid South Africa. Some universities, churches, non-governmental organisations and newspapers espoused heresies. Perhaps the repressive state even benefited from this limited freedom, because it obscured the authoritarianism.

In those niches of progressive foresight, a few politicians, clergy, academics and journalists of remarkable calibre flourished. One of them is Gerald Shaw. During half a century he operated as a reporter in Pretoria, Parliamentary correspondent, stringer for foreign papers and, for the longest time, as Cape Times political columnist and associate editor. His fascinating autobiography provides a telling picture of the trials and tribulations of a liberal newspaperman.

Journalists operated under more than 100 media laws. Their writing was subjected to scrutiny by a diverse but largely conservative readership; they always had to balance their own moral convictions and integrity with the interests of their employers, without risking their career needlessly.

The few I have known personally displayed a wide range of styles and political acumen in this difficult balancing act. All these characters come alive in Shaw's book, because at one time or another he has encountered or worked with all of them.

Shaw's political commentary could be laced with more bite; he never expresses what the protagonist in

JM Coetzee's Diary calls "strong opinions" within the broad liberal consensus. This is both his weakness and his strength. Shaw's accurate descriptions ensure him a wide audience without turning readers off by too partisan a stance on controversial topics. His style is measured and balanced, his judgments in his political surveys faultless.

The book's merit lies beyond all this. Shaw's authentic account unwittingly contradicts the picture of the English press painted by the Truth and Reconciliation Commission (TRC). Was the English press a force of opposition or a handmaiden of apartheid, compliant and appeasing, as the TRC asserts? The TRC account conflates the exclusively white and capitalist ownership of the English opposition press with conformism to apartheid, overlooking the divergent ideologies, interests and political strategies within this camp.

Gerald Shaw was one of a few multipliers of liberal opinion. He cultivated a wide spectrum of academics and opened his Cape Times to their controversial musings.

South Africa is fortunate that in a less perilous period many brilliant black journalists nowadays continue this critical tradition of speaking truth to power. The unassuming Gerald Shaw, in the modest portrayal of his life, serves as a model of how journalists can inform and educate with exemplary professionalism and unflinching integrity.

Heribert Adam is Professor of Sociology at Simon Fraser University in Vancouver and an annual visitor to the University of Cape Town.