

SA Reconciliation Barometer

Tracking socio-political trends

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**DEMOCRACY IN
THE MAKING:**
Are we entrenching
our gains?

Mathews Phosa
on judicial reform

Roelf Meyer:
Beyond the 'majority vs.
minority' paradigm

William Gumede
on the 'payoffs' of
chequebook politics

Sunsets and holy cows:
Views on affirmative action





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editorial

The number thirteen fills the superstitious amongst us with a sense of trepidation: nothing is taken for granted and a general sense of unease prevails when this menacing number shows up. As it happens, 2007 is the thirteenth year in the life of the South African democracy.

Pointing out our democracy's age in this year's first issue of the *SA Reconciliation Barometer* may therefore alarm those who find significance in numerical omens. Are we suggesting, like many doomsayers since 1994, that this is the year when the weaknesses of our young democracy will catch up with it? Certainly not, and even if we were, it would be hard to convince the vast majority of South Africans who believe precisely the opposite. In the most recent round of the *SA Reconciliation Barometer Survey* of the Institute for Justice and Reconciliation, conducted in April and May 2006, 70 per cent of South Africans indicated that this country is moving in the right direction. And we concur with the majority.

True, the questions we face as a country this year involve many 'unknowns', and yes, these questions will probably have far-reaching implications for our future. We will have to wait until the end of this year for the answer to the most vexing of these unknowns: the election of the African National Congress' leadership structure. Since both our post-apartheid presidents have left an indelible personal imprint on South African society, the same can be expected from our new leader; that is, unless new leadership models are adopted which shift real executive power of the president from the Union Buildings to Luthuli House. If this actually happened, it would potentially have broader and longer-term repercussions for the future than the actual identity of our new leader. However, in the absence of such new organisational designs, the need for policy continuity will circumscribe the incoming president's ability to implement instant change, regardless of what that change may be. As President Mbeki noted in his *State of the Nation* speech earlier this year, policies, once formulated, are often faced with implementation capacity deficits and do not automatically translate into changed circumstances.

Let us move on to the 'knowns'. We have a functioning constitutional democracy that can, by and large, contain the tensions that are characteristic of a developing nation like ours. Up to now, our democracy has managed to cope with the burdens bequeathed it by the racial divisions and economic inequalities of the past. Similarly, we have learnt the importance of continuously reinforcing consensus, negotiation and open public debate – the cornerstones of our democratic architecture – in order to retain the sense of ownership and responsibility that South Africans feel towards their country's future.

Another important 'known' is the good shape of the economy. And while clouds may be gathering on the global economy's horizon, our ship is more seaworthy and better equipped to weather any storms that may come our way. Although the economy's major structural problem, inequality, remains with us, we have much more information at our disposal about the extent of the problem and, irrespective of which side of the debate we find ourselves on, many more possible solutions to it.

This new-look and longer issue of the *SA Reconciliation Barometer* looks at a number of these debates. The articles offer insight into various perspectives on our democratic evolution over thirteen years. Divergent they may be, but as a collection they underline the fact that we are beyond the stage where superstition should be used to make sense of this country.

Jan Hofmeyr

Project coordinator: *SA Reconciliation Barometer*

What we look for in our future president

This year is probably the most important year in our political calendar since 1994. By the end of the year, we should know who our new president will be until at least 2014 – a person who will play a key part in defining the character of the nation during those years.

We all knew Nelson Mandela would be the nation's first democratic president. We knew from the beginning that Thabo Mbeki would be his successor. But we do not yet know who this third president will be. We are not sure how he or she will be elected, and most importantly, we do not know what moral and leadership criteria will determine that decision.

Checks and balances are in place to ensure that the constitutional principles that shape our democracy remain in place whoever is elected. Some key questions remain: Will the third president give the necessary lead to entrenching democracy? To what extent will parliamentary and community-based democracy prosper or wane? Will he or she draw the different racial, communal, religious and class-based sectors of our society into a greater sense of unity and belonging?

We pride ourselves on the level of constitutional democracy we have achieved – and with good cause. Now we need open debate to define a presidential job profile, setting out the skills, moral values, public profile, management proficiencies, technical expertise and leadership qualities that candidates should offer in applying for the job.

Listening to citizens discuss the characteristics of the incoming president, whether of the party or the country, I am hearing people of all kinds express hope that we will get a sower of unity rather than division, of harmony not contention, integrity not corruption.

In a speech a few years ago the President himself encouraged South Africans to engage one another in open debate on the complexity of issues facing the nation. He cited the Chinese slogan: 'Let a hundred flowers bloom! Let a hundred schools of thought contend!'

This is simply not happening. South Africans who disagree on major policy issues tend to talk past one another. Opposing views tend to generate an alienating reaction or morose silence from leaders.

Some among us are hesitant to talk at all – lest they lose favour with those who have the ability to influence their professional or political future. Civil and constructive debate on issues that divide the nation is not a hallmark of South African politics.

We need to find our way to an ongoing national communication which takes us forward. Participatory democracy involves more than the vote, which after elections tends to allow elected representatives to do as they like. Some happily cross the floor when it suits their careers and pockets.

Participatory practice involves what has been defined as 'a cumulative, multilevel and open-ended process of continuous interaction over time, engaging significant clusters of citizens in and out of government and the relationships they form to solve public problems'.

For this to happen we need to regain the level of courageous debate that characterised progressive politics in the 1980s. Shortly before his assassination in 1973, the great African intellectual Amilcar Cabral appealed to African leaders to 'give everyone at every level the

opportunity to criticise, to give his [her] opinion about the work and the behaviour of others ... [and to] accept criticism wherever it comes from'.

Cautioning against ill will and intrigue, he characterised political criticism as an 'act of expressing an open and candid opinion in front of those concerned'. It was this climate of criticism and exchange that he saw as both source and protector of democracy. To fail to nurture this milieu was for him to endanger the democratic spirit.

We have certainly taken huge steps forward in promoting an open and democratic culture since the inauguration of former President Nelson Mandela in 1994 and the inauguration of President Mbeki in 1999.

The problem is that our gains have lulled us into a sense of political complacency, causing us to become victims of our own success.

The events and debates of recent months suggest that it is time to fasten our seat belts as an increasing number of individuals and political groupings in the ANC alliance – and the Democratic Alliance (DA) – begin to challenge the political rhetoric and policy of their respective parties.


We struggle to find ways to overcome the racial and economic barriers imposed on us by our past. There are daily occurrences of rabid racism and other forms of hate that fall below the lowest level of human decency. But at the same time, people on all sides of the old divisions are reaching across the barriers in pursuit of a more integrated society. We live side by side, while the as yet indefinable rainbow nation continues to elude us.

Our national ideal within which South Africans of different identities (imposed by a long history of separation) begin to honestly *engage* and *complement* one another, is a vision and an ideal that embodies the genius of the South African dream.

This ideal has the capacity to awaken the sleeping giant that this nation can become, providing social integrity, political hope and a moral beacon for others in Africa and elsewhere. Leaders in business, cultural groups, faith communities, academia and civil society all have a role to play. And the most powerful influence of all will be our president-to-be.

No leadership is more instructive here than that provided by the head of state. We need to be proactive in debating our collective future and not wait for our leaders to take us forward. This is good participatory democratic counsel. Leadership does, however, either facilitate or retard the process.

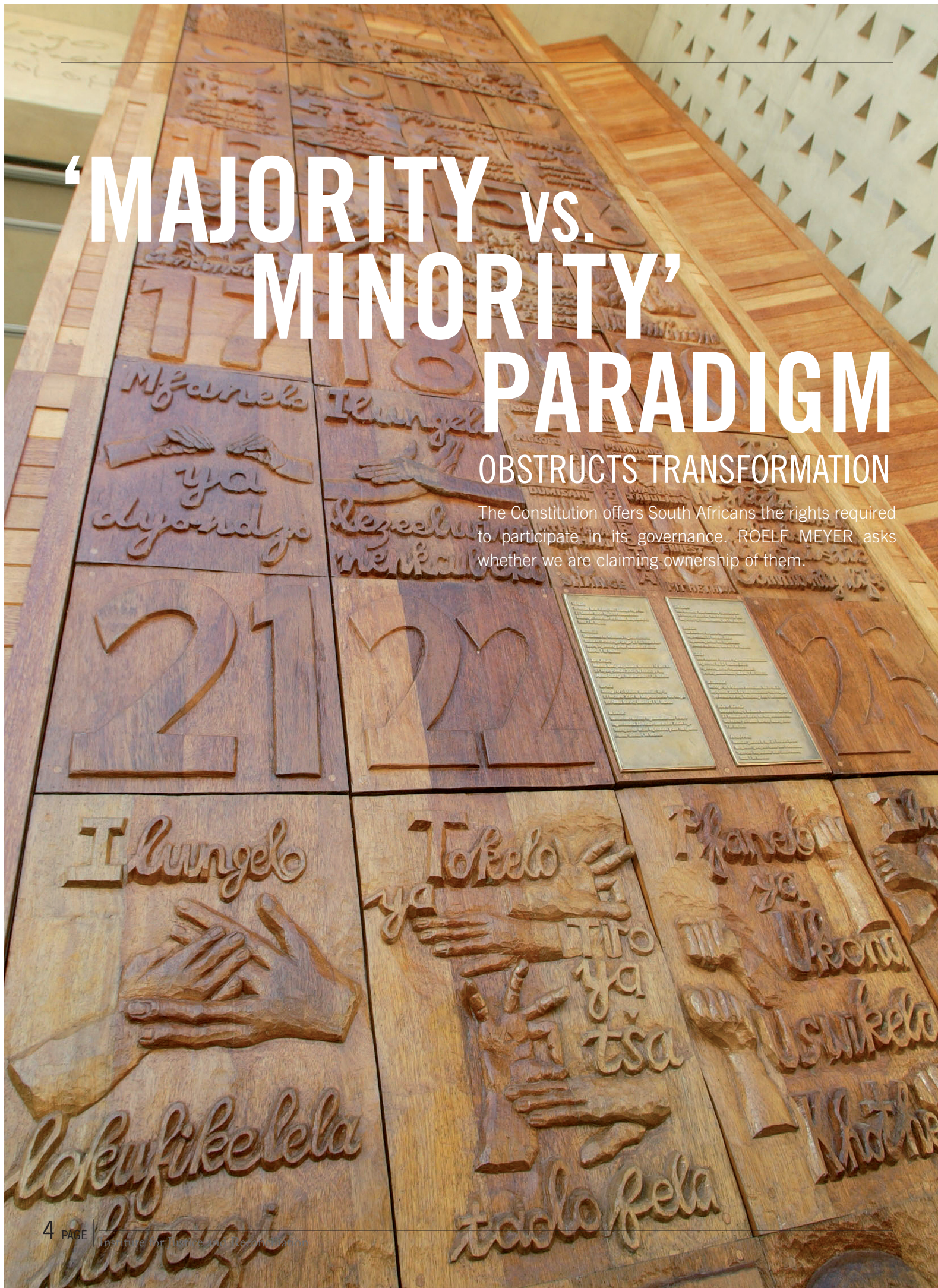
German poet and author Johann Wolfgang Goethe once wrote: 'Treat a person as he is and he will so remain. Treat a person as he can and should become and he will become what he can and should be.' Thirteen years into our democracy we are searching for another leader who will inspire and enable the nation to be more than it is, while initiating and implementing policies and programmes to get us there.

This is a lot to ask, but then these are the kinds of bold and inclusive leadership qualities that we expect our president to have in challenging us to rise above who we are to what, in our better moments, we know we ought to be. 

(This article also appeared in the *Cape Times* on 10 April 2007.)

Dr Charles Villa-Vicencio

Executive Director: Institute for Justice and Reconciliation



‘MAJORITY vs. MINORITY’ PARADIGM

OBSTRUCTS TRANSFORMATION

The Constitution offers South Africans the rights required to participate in its governance. ROELF MEYER asks whether we are claiming ownership of them.



2007 will probably be the most important political year since the country's democratic transition in 1994. From 2009 South Africa will have a new president, and the national conference of the African National Congress in December will provide the first concrete indication of who that person might be. The choice of candidate will arguably be one of the critical factors that shape South Africa's future between 2009 and 2014, and possibly for another five years after that.

This year may therefore be the beginning of a new phase in our democracy. Before we enter this new era, it may serve us to pause and take stock of our achievements over the past thirteen years. We need to do so in order to identify our comparative gains as well as those areas where democratic deficits still persist. I would like to do this by proposing a number of indicators which I believe are important for measuring our progress, and which will also remind us of the challenges we still face.

First off, it would be fair to say that the South African democracy has developed a high degree of maturity since 1994. For those holding a different view, it might be instructive to look at recent developments in Nigeria, one of the older democracies on our continent. The development of democracy over the past thirteen years in South Africa is truly beyond what most of us, including myself, expected.

For many of us who were involved in the political negotiations, this process has, in subsequent years, extended to interactions beyond the sphere of politics. Strong friendships have been forged between individuals who sat on different sides of the negotiation table. From a personal perspective, this is one of the wonderful things that have transpired. It brings me to the first principle – or in this case, set of complimentary principles – which I believe will be critical in determining the course that we as a country will embark upon in years to come: consensus, reconciliation and transformation.

At the time of the negotiations, a fine balance had to be struck between consensus and reconciliation on the one hand, and justice on the other. Referring to the impact that apartheid had on the majority of our population, some argued at the time that there was no reason to seek either consensus or national reconciliation. Luckily this view did not prevail and instead we were fortunate enough to have leaders that were committed to consensus and reconciliation as the critical components for a lasting peace. However, I would like to submit that it is debatable whether, through our processes of consensus and reconciliation, we have indeed sufficiently addressed the anger that prevailed at the time. Have we vindicated the faith that was put in these principles?


We need to ask this question because, although we have managed to bring about a smooth political transition, the actual transformation of our society still appears to be incomplete. At the negotiation table, it was argued that justice for apartheid crimes should be postponed in order to allow consensus and reconciliation to pave the way for the real structural transformation of our society. This was the rationale on which the quest for reconciliation was based. It is with this in mind that we need to remind ourselves that transformation was as much part of the settlement agreement in 1994 as consensus and reconciliation were. Quite frankly, if we had to judge the state of transformation in South Africa today, many would say there is still a long road ahead of us. In 1994 my estimation was that the process of transformation

would probably take fifteen years. If pressed to make this estimation today, I would probably say that we need another fifteen years. Even then, the process will most likely be incomplete. We need to start addressing the tension between the justice and the consensus/reconciliation camps, regardless of the obstacles in the way.

The second set of principles that need to be revisited relates to the juxtaposition of inclusiveness versus minority rights. During the negotiations, the government of the time maintained that minority rights had to be protected at all costs. But at some point the negotiations totally broke down, necessitating the adoption of a new paradigm which regarded individual rights as the bottom line for the equal treatment of all South Africans. This forms the basis of our Constitution as we know it today. The manner in which individual rights are therein described distinguishes it from all others, making it one of the most modern and liberal constitutions in the world. I would therefore like us to move away from the outdated majority-minority debate and focus instead on the individual rights the Constitution extends to us all.

‘... transformation was as much part of the settlement agreement in 1994 as consensus and reconciliation were.’

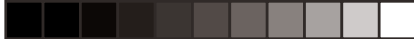
Thirdly, I would like to refer to the category of principles that clarifies the distinction between tolerance and conflict. Although we were close to a civil war at one stage, the negotiation process forced us to develop an empathy for the positions that informed the different perspectives and political groupings in the country. Tolerance developed out of this understanding, replacing the conflict that had characterised our relationships up to that point. This, in turn, paved the way for all parties to accept ownership both of the whole process and of the need to secure a common future. It is this ownership that enabled us to draft the Constitution as a homegrown model for our specific needs. While outside actors made important contributions, we were able to withstand the temptation to ‘import’ a model from abroad. If this had not been the case, we could have ended up in the same position as other troubled countries where imposed models have not necessarily translated into the resolution of conflict.

To me the important question today is whether we have managed to involve all South Africans in that ownership process. Put differently: are all of us taking on the responsibility of exercising that ownership? The way in which we will be moving forward as a democracy should not be determined by one party or government alone; it is the responsibility of all of us because, as individuals, we have the responsibility and the right to claim ownership of it. This puts the onus on each of us to give serious thought to how we can claim that ownership and constructively correct that which we do not find acceptable in our society. 

(This is an edited version of a speech delivered by Mr Meyer at an event with the theme “Democracy Today”, hosted by the IJR on 18 April 2007.)

Roelf Meyer is currently a business person and serves on the board of directors of various companies and acts as a consultant on peace processes. He was chief negotiator of the National Party Government during the CODESA talks and served as a member of cabinet under the National Party government and the post-apartheid Government of National Unity.





JUDICIAL REFORM NEEDED to safeguard human rights

Former Mpumalanga premier, MATHEWS PHOSA, suggests that the machinery of law enforcement requires streamlining to ensure outcomes that are consistent with basic human rights.

The year 2007 finds us thirteen years into a democratic process that started with the country's first free elections in April 1994. The African National Congress won a landslide victory and became the country's first democratically elected government. In both elections since, the governing party has increased its share of the vote.

In the current absence of a robust parliamentary opposition, a huge burden therefore rests on the party to ensure that the democratic principles it fought for are kept in place by appropriate policies and institutions.

I am optimistic about our future and am of the firm belief that we can further grow our economy, strengthen our government, and enhance our growing role as regional leaders on the continent itself and as a major representative of our continent on the world stage. By no means do I suggest that we have achieved a 100 per cent scorecard. There is still a lot of room for improvement in governance, in growing the economy, and in ensuring that growth is managed in such a way as to best serve those who have not yet found their voice in this new political and commercial environment.

At the heart of ensuring access to the fruits of our political and economic liberation lies the need for a functioning and independent judiciary that jealously guards over the rights of its citizens. Hence I want to confine my comments here to matters relating to our broader judiciary system as it pertains to human rights issues.

It is a wise government that finds the perfect balance between an effective judiciary and the protection of human rights. The judiciary is required to protect basic human rights in a way that doesn't impinge on

the rights of the accused – a question which continues to trouble both philosophers and the brightest legal minds.

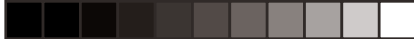
In South Africa the fight against crime takes a very high priority. To combat it, we need to prioritise three things: the creation of a proper legislative framework, the empowerment of the judiciary, and the provision of assistance to our law enforcement agencies so that they execute their duties in the most effective manner.

We have in recent years seen a number of high profile court cases dealing with issues of human rights within the ambit of the broader anti-crime initiative. In the process, related issues (such as the separation of powers within institutions) have been raised to remind us that much care needs to be taken when drafting legislation for a constitutional state. Judging by the issues raised, it is my impression that the current legislative and institutional frameworks need to be improved dramatically in order to liberate and empower our crime fighters whilst at the same time ensuring that we do not grossly impede on the constitutional and human rights of those entitled to a fair trial under the Constitution. Let me refer to a few examples.

As a lawyer, it concerns me deeply that we have not yet learned from the challenge posed by the judgement on the Heath Investigative Unit which, in broad terms, specified that an institution cannot adopt different roles across divides that have become the cornerstone of constitutionally separated powers in the judicial system.

Simply put, you cannot be an executive functionary in the judiciary system as well as a judge of it. Accordingly, the powers of the Directorate of Special Operations can clearly be challenged on the grounds that this institution plays the role of investigator and





prosecutor at the same time. I am convinced that the current framework can be challenged successfully on the basis of constitutionality, the broader issue of the separation of powers, of legality, and of the infringement on the rights of the accused to have fair administrative treatment as well as a fair trial.

The existing grey areas set us up for long hearings, long legal arguments, appeals to higher courts, and, in the end, appeals to the Constitutional Court. We need to protect the judiciary against an imperfect legal framework that allows for highly unproductive legal processes.

In addition, I wish to emphasise that our country is nearing the stage where we will have refined our legal system to such a level that procedural legal oversights, especially pertaining to human rights, could result in cases being thrown out of court. I, for one, believe that we must either protect human rights completely or not at all.

Therefore, we must not hold up the process of streamlining and improving the legal framework as it pertains especially to criminal investigations and arrests, as well as to the procedures that lead to formal prosecution.

I also want to state categorically that whilst I believe that the dignity and honour of judges and magistrates should be upheld and protected at all times, and whilst we should enhance their status as interpreters of the law and the settlers of disputes, we should not, at any time, view them as being above the law themselves.


I am strongly supportive of proposals that seek to expedite the development and completion of a code of conduct for judges and magistrates. Transparency and democracy can only be effective if all

‘...institutions created to protect the vulnerable should never end up as extensions of political decision-making.’

men and women in positions of leadership, irrespective of their role in that democracy, are held accountable.

In the same vein, it is important that all the institutions created to support democracy should submit to oversight from parliament from time to time. Some of the current revelations regarding high-profile commercial awards substantially tarnish the reputation of objectivity demanded from these Chapter Nine institutions. If parliamentary oversight is not enough, we need some form of closer oversight over the activities of all Chapter Nine bodies.

Such supervision, both in terms of these institutions and the judiciary, needs to ensure that all institutions created to protect the vulnerable should never end up as extensions of political decision-making.

In conclusion, we as citizens must support our government with all our energy in its efforts to create a better society. We need to be vigilant as well as sensitive towards ensuring that those governing institutions created to protect both us and our democracy should do so and, in that process, be accountable to us as voters. 

(This is an edited version of a speech delivered by Dr Phosa at an event with the theme ‘Democracy Today’, hosted by the IJR on 18 April 2007)

Dr Mathews Phosa is a businessman, a member of the ANC’s National Executive Committee, and a former premier of Mpumalanga.



he emotive tone with which the affirmative action debate is conducted in South Africa has rendered it sterile. Unfortunately this policy has been elevated by some to holy-cow status, above any critical scrutiny and engagement - even if such engagement is aimed purely at improving its implementation.

Last year, the Solidarity Trade Union released a code of good practice for affirmative action. The code was developed in line with existing jurisprudence and in harmony with the spirit of the Constitution. It helps companies to act within the existing statutory framework of affirmative action and, consequently, bolsters the constitutional state. In a normal democracy the compilers of such a code would be lauded as builders of democracy. In this instance the chairperson of the Employment Equity Commission, Jimmy Manyi, labelled the code criminal. It seems as if the race of the compilers was evaluated, not the content of the code.

The suggestion of Charles Naudé, editor of Sake24, that affirmative action should be stripped of its focus on race is a valid one, complying as it does with international affirmative action trends. The United Nations Human Development Report recently proposed that affirmative action in the United States should be adapted to concentrate on the socio-economic circumstances of citizens, rather than their race. This is aimed at preventing the creation of second and third generations of advantaged citizens and to counter the elitist direction of affirmative action.

Marius Fransman, ANC MEC for Public Works and Transport in the Western Cape, has proposed a moratorium on affirmative action with

regard to certain scarce and critical skills – another excellent suggestion. The growth potential of a country is determined by the availability of skills. If a limit is put on skills, growth will be hampered – and by hampering growth, distributable wealth is diminished. Fransman's suggestion will therefore lead to accelerated rather than limited growth, and hence affirmation. Once again, this proposal follows international best practice. Malaysia followed a fundamental growth procedure regarding affirmative action. It was even stipulated that a moratorium would be put on affirmative action, should the country's growth rate decline below a specific level. Malaysia recognised (like Fransman) that greater economic growth enables more supportive and equitable employment practices.

Another positive suggestion from the Solidarity camp is that affirmative action should be of a temporary nature – this is a necessary requirement of affirmative action policies according to the International Labour Organisation. Further, young people should be exempted from affirmative action policies to counter the alienation of those who were not even at school in 1994. The implementation of this suggestion would also set a natural cut-off date for affirmative action policies. In order to prevent, for example, the alienation of coloured people, another suggestion calls for the making of no distinctions between members of the designated, socio-economic group.

Perhaps the most significant Solidarity affirmative action contribution is the view that local communities must be transformed into working economies. If these suggestions from Solidarity are adopted, it will

Shed holy-cow status BEFORE affirmative action can work


More flexibility is needed to make affirmative action an efficient equity measure. DIRK HERMANN believes that holy cows are blocking the road towards a worthwhile end.

result in the true empowerment of the disadvantaged masses. The idea of self-reliant communities as an alternative to affirmative action derives from Booker T Washington, an African American who wrote about this subject a century ago. His ideas about black self-help have been revived in contemporary America. The South African affirmative action programme is essentially an elitist programme: too often affirmative action initiatives focus on top-management, management and specialist positions. As a matter of fact, top-management positions account for 0,5 per cent of the South African work force and management and specialist positions for about 4 per cent. In other words, the affirmative action emphasis in South Africa falls largely looks past the interests of 95 per cent of South African workers. Growth as well as the economies of self-reliant communities must come to their aid instead. In the meantime, South Africa can and should learn from the world on how to expand the affirmative base to one that is inclusive of all who are in need of its remedial objectives.

All the points listed above will strengthen, rather than weaken, affirmative action in South Africa. The important question is whether the affirmative action debate in this country is mature enough to take cognisance of and consider these alternative approaches. This does not, unfortunately, seem to be the case. More often than not, suggestions like these are swept aside with contempt, just as the Employment Equity Commission has done with the Solidarity proposals. The cow is clearly still too sacred to expose to the impact of more practical applications such as these.

Why have roleplayers not been able to meaningfully engage each other on the topic? What has made affirmative action so sacred that it is regarded as untouchable? Ward Connerley, an African American scholar, asks why the majority of African Americans strongly favour affirmative action when only a small group benefits from it. His conclusion is that affirmative action constitutes recognition of their past suffering. The symbolic value of affirmative action as recognition of a troubled past must not be underestimated, and it is probably only this symbolism that preserves its sanctity.

‘The growth potential of a country is determined by the availability of skills. If a limit is put on skills, growth will be hampered – and by hampering growth, distributable wealth is diminished.’

South Africa will have to give new substance to the symbolism of affirmative action by expanding the programme in a way that benefits the masses without alienating the minority. A new agreement on affirmative action could be achieved, provided South Africa uses its legendary ability to solve problems through negotiation. We need an affirmative action CODESA to bring talking back into the affirmative action process. 



Dirk Hermann (on the right) is deputy general secretary of Solidarity. He recently completed a doctorate on affirmative action and his book on the same subject will be published at the end of June.



Loyiso Mbabane

The BEE sun must RISE before it can SET

Recent talk about a possible moratorium on affirmative action is premature, says LOYISO MBABANE.

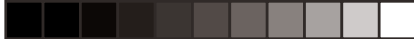
In March this year, Marius Fransman, Western Cape MEC for Public Works and Transport, mooted the possibility of a three-year moratorium on affirmative action appointments in order to top up skills in sectors where shortages are being experienced. This has, as expected, opened the door for those inherently opposed to this equity measure to demand the introduction of a 'sunset' clause on affirmative action.

I regard such calls for a sunset clause for Black Economic Empowerment (BEE), which now includes affirmative action and employment equity, as mischievous. To those whose living conditions have not improved significantly as a result of liberation, the calls for a sunset clause on BEE are baffling. Most people are still waiting for the sun to rise on BEE! So when we hear talk of a sunset, we ask one another in bewilderment: 'But when did the sun rise?'

Of course this is a convenient self-fulfilling prophesy. Here is how the plot works: Through apartheid legislation, you exclude millions of people from technical and scientific education and reserve jobs. You do this for about three centuries while you aggressively empower one particular race group. Once this group is firmly ensconced in the high-paying professions, and once they have accumulated vast wealth and human capital, you then cry foul when the masses of people, mostly black, attempt to acquire the same wealth and human capital. You use your well-established contacts in the media as well as your privileged access to education and senior positions to launch an onslaught against BEE, describing it as a race-based programme and so on. Then voila: you have an excellent 'self-fulfilling prophesy'. After all, if you want to distract and confuse a hungry dog, you smear some gravy on its tail; the dog will chase its tail forever while you continue to enjoy the feast.

This is precisely what is happening with BEE in South Africa. In spite of the so-called economic boom, there is no acceleration in the advancement of women, black people, people with disabilities and other marginalised groups. On the contrary, the very same boom and the concomitant demand in skills are used to justify the need to use 'retired people with skills' and to even import skills. Not surprisingly, most of these people are white. The argument essentially boils down to saying: 'Black people have no skills; white people have got them. Use white people instead. Don't target black people for skills and empowerment; this is racist.' We are in a perfect trap!

Such thinking turns the rationale of the Accelerated and Shared Growth Initiative for South Africa (ASGISA) – broadly accepted by most



'In spite of the so-called economic boom, there is no acceleration in the advancement of women, black people, people with disabilities and other marginalised groups.'

political formations – on its head. When taken to its logical conclusion, the moratorium argument suggests a zero-sum game which dictates that the 'sharing' part of the strategy has to be deferred until we get the 'acceleration' part right. By implication, it suggests that black people should not share in the current economic growth in terms of access to the high-level and lucrative skills that it is creating. They should rather wait until the economy enters into a recession, where there will be no need for skills anyway.

There are many reasons why this country needs to continue accelerating the empowerment of black people and most of them are not even linked to white people. Fortunately, the boom in the South African economy means that this can be done without excluding white people. In fact, many white people have prospered under the auspices of BEE. But let us remain cognizant of why we are embarking on BEE and what its long-term benefits are to the nation as a whole. Here are just a few of the reasons for accelerating empowerment:

Firstly, we have neither the quality nor the quantity of skills that are required to maintain current economic growth rates. No self-respecting nation ever developed by 'importing' high-level skills. The secret to India's economic development, by their own admission, lies largely in their aggressive development of skills. The same goes for Malaysia and the East Asian economies, most of which possess no mineral endowments. The development of skills among the black population in particular is made more critical by the decades of disinvestment in this group. The calls for an end to 'affirmative action' are essentially seeking to perpetuate the Verwoerdian doctrine of keeping black people unskilled. Intentions notwithstanding, it is the effect that matters.


Secondly, BEE is more than 'affirmative action'. It seeks to deliberately encourage the inclusion of the majority of the population in economic opportunities, through access to procurement opportunities and other economic activities. This is absolutely necessary to safeguard the long-term survival of the free-market system. The alternative is to confine the black majority to a situation in which they provide capital with cheap labour; once again perpetuating another apartheid mission.

Thirdly, South Africa's Total Entrepreneurship Activity (TEA) is very low, and especially so amongst black South Africans, as evidenced in the annual Global Entrepreneurship Monitor (GEM). BEE – specifically

through exposure to high-level jobs, managerial experience, preferential procurement and enterprise development – should in the long-run create the conditions that will lead to a marked rise in the TEA rate of black people.

Fourthly, increasing the wealth among a 'critical mass' of black people is good for the economy. This means that more people become 'credit-worthy' and are therefore able to raise capital, start new businesses, invest, increase their buying power, save, send their children and members of their family to good schools and so on. This in itself then stimulates domestic demand, which acts as a push in economic growth.

Lastly, there is the 'Zim-gevaar' argument. If the majority of black people continue to see themselves excluded from the mainstream of the economy, they are more likely to use their numbers to install a radical government or simply revolt. The famous Malaysian empowerment programme for the indigenous Malays (the New Economic Policy, 1970–1990) was not started voluntarily. It was in response to serious riots in the streets of the capital, Kuala Lumpur, in 1969 by the Bumiputera (indigenous Malaysians), who were dissatisfied with their continued exclusion from the economic mainstream. For more than 20 years after independence from Britain, the Malaysian economy continued to be dominated by the Chinese (and to a lesser extent Indians) to the exclusion of the Bumiputera majority. Meanwhile, the government that the Malaysian majority had voted into power in 1948 continued to be pre-occupied with 'national unity' to the exclusion of real transformation and empowerment. The same unrest happened in Zimbabwe, also some 20 years post liberation. South Africa will reach the 20-year mark in 2014. Already there are serious rumblings among the majority.

The writing is on the wall. Soon it will be on the table. Don't let the sun go down on BEE! *Ulibambe lingashoni!* 

Loyiso Mbabane is the Director of the School of Business and Enterprise at the University of Fort Hare, a leading BEE academic and the Managing Member of the Economic Justice Agency. He writes in his personal capacity.



Democracy to the **HIGHEST BIDDER**

Chequebook politics, writes WILLIAM GUMEDE, may distort the outcomes of democratic policy-making processes in favour of the 'platinum class'.



It appears that a thick wallet increasingly buys one easy access to government leaders, contracts and favourable policies. Last April the ANC set up what it called a 'Progressive Business Forum', which charges business people between R3 000 and R60 000 to meet senior ANC leaders and public servants face-to-face. Sadly for those who expected better from the ANC, senior leaders have actually got annoyed with critics of this controversial scheme. They maintain that it is quite innocent and there is no reason anybody should think it could plunge South Africa into the quicksand of chequebook politics. ANC national spokesperson Smuts Ngonyama insisted the forum provides businessmen and women with 'regular information on ANC policies and programmes that would be of relevance to them, and interaction with ANC leaders in various forums'. If this is really the case, why put such a high premium on membership? Ngonyama goes on to claim that the forum 'promotes honest and productive two-way dialogue between the business community and the ANC'. This hardly sounds convincing. During a question-and-answer session at the forum's launch in Johannesburg last April, many of the businessmen and women who had paid to join the forum told the keynote speaker, deputy trade and industry minister Rob Davis, that they found it difficult to secure government tenders. By which they meant that, having now become members of this exclusive ANC club, they hoped to scoop government contracts by the bucket-full.

Meanwhile, many ordinary, card-carrying ANC members at branch level claim they have no say in decision- and policy-making and rarely meet their elected representatives in person – two of the main reasons

for the grassroots rebellion against President Thabo Mbeki and the ANC leadership at the movement's seminal June 2005 national general council. These days, rich individuals (whether black or white), big corporates and even parastatals donate large amounts of money to the ANC. Their donations dwarf the amounts received from membership fees, especially since membership has been in decline. This has subsequently inclined the ANC towards big donors. Policies are often influenced by the person or group that pays the most money. It follows that if tycoons pay large sums towards the upkeep of the ANC, the ANC leadership will be keen to hear their views. It is already of concern that business groups, with their large war-chests, already have access to government, parliament and party leaders, and can influence decisions and policies. In contrast, ordinary people find parliament, provincial legislatures and municipalities notoriously inaccessible; they are left to try and make sense of government pamphlets by themselves.

While BEE tycoons are able to complain directly to senior officials about not getting enough government contracts and their white counterparts can ask personally for even more favourable laws, the poor are often ignored by public servants and politicians when they complain about poverty, unemployment, homelessness or local crime. Ordinary ANC members struggle to meet even their local representatives – many are either too busy or, so they claim, have more pressing issues to attend to. When the voiceless, politically unconnected poor do protest – as they have been doing in spontaneous community protests mushrooming across the country – government leaders, such as intelligence minister Ronnie Kasrils, blame 'agent provocateurs' and



launch intelligence investigations to smoke them out. The civil-society groups that are demanding that government honour its very minimum reparations' obligations for human rights abuses committed by the apartheid state (as recommended by the Truth and Reconciliation Commission) wait years for hasty meetings with government officials. The Treatment Action Campaign could only meet health minister Manto Tshabalala-Msimang at public meetings – which they often had to gatecrash. Cosatu leaders at one point could not find a window in President Mbeki's diary for close to 18 months.


'Meanwhile, many ordinary, card-carrying ANC members at branch level claim they have no say in decision- and policy-making and rarely meet their elected representatives in person'

It also needs to be pointed out that the 'Progressive Business Forum' did not simply fall out of the sky. It was part of a raft of proposals cobbled together by senior ANC leaders as part of what are termed 'modernisation' reforms. A host of these modernisation proposals was rejected by grassroots members at the ANC's June 2005 national policy conference. As a compromise, some of these proposals were transferred to the ANC's NEC for further debate – or perhaps for easier ratification? Others have been referred for further discussion to the ANC's December 2007 national conference. One of these is a proposal

to give business members special votes and powers at ANC gatherings. If this is accepted, it will certainly contradict the ideal of equal membership which the ANC professes to uphold. In fact, it will entrench the perception that rich comrades are more equal than poor ones.

The question remains: are we straying into an epoch of selling policies that have been tailor-made for the highest bidder? The policy-making process plays a pivotal role in ensuring the quality and substance of democracy. There is increasing concern that policies in South Africa are often assembled by 'informal' processes outside the official institutions of democracy and beyond public scrutiny. Also, since 1999, new centres of influence on policy-making have been established which are outside the elected representative system. Key among them are the presidential working groups, which include big business, black business, trade union, agriculture, international investment advisory council, and international IT council representatives. Significant policies have been either conceived or fleshed out in these presidential groups and are presented to parliament and the public as *faits accomplis*.

This symbiotic relationship between politics and business is corroding our democracy. For a long time now, the boundaries between politics and business have often been worryingly blurred. The majority of the ANC's NEC is now business people or people who have business connections. Schabir Shaik's sentencing to 15 years in jail for fraud and corruption is a warning to those using their political 'connectivity' to corruptly secure government contracts – it can now lead to lengthy prison terms. Before the Shaik judgement, party leaders did not show any enthusiasm for dealing with the issue. The arms deal, as well as continuing allegations of corruption, are clear examples of the dangers of chequebook politics. Such dealings not only erode trust in politics, politicians and the authority of government, they also drive people away from participating in democratic processes.

For the ANC leadership to restore public faith that money doesn't buy unfair access to senior leaders, nothing less than releasing all the names of the members of the 'Progressive Business Forum' is required; the amounts of money donated need to be made public too. It will be a lost opportunity if the ANC leadership remains deaf to such calls. In the meantime, the 'Progressive Business Forum' appears to be just another symptom of our democracy's dangerous malaise, where those with the most money, the 'platinum class', often get their views across and thus determine public priorities. No wonder those without the money to get their voices heard increasingly look towards populist leaders in the hope that they will finally secure access to government leaders and policies. 

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INCLUSIVE GOVERNANCE is AS IMPORTANT AT HOME as abroad

There should not be any inconsistencies between the principles that underpin South Africa's domestic and foreign policies, writes JAN HOFMEYR.

South Africa's election to serve as a non-permanent member on the United Nations Security Council (UNSC) in 2007 signifies another milestone in the country's remarkable democratic transition. From its pariah-status lows under apartheid, the country has ascended over the past thirteen years to what many regard as an emerging middle power that occupies the high ground in the international system.

'Membership criteria' for this category of nations typically consist of one, or a combination of, considerations that include economic strength, military power, regional influence, but also the ability to successfully promote particular normative values on the international stage. While South Africa certainly possesses a certain measure of each of these qualities, the latter offers the most convincing argument for its categorisation as an emerging middle power. The country is perceived as an important repository of moral social capital and this allows it to act with a boldness that is often described by some observers as its ability to 'punch above its weight' on the international stage. To nurture this reputation – and the strategic value of this position cannot be overlooked – its commitment to the principles of multilateralism and a rules-based international system needs to be sustained, but equally important is the need to cherish the source from which they stem.

Deputy Foreign Minister, Sue van der Merwe, noted in a speech at the University of Cape Town last year that 'our foreign policy agenda is informed by our domestic policy and the two are mutually reinforcing'. The strength of the one, she argued, is dependent on the other. In this regard it is difficult to imagine South Africa having the same successes on the international stage were it not for its remarkable democratic transition and the values of consensus and inclusivity that underpinned it. When Archbishop Emeritus Desmond Tutu called South Africa's controversial Security Council vote on human rights in Myanmar a

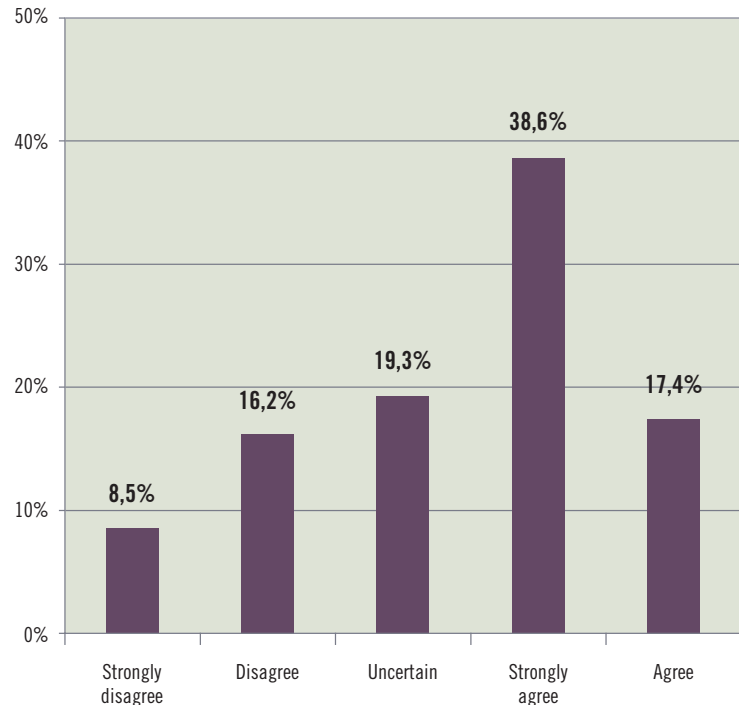


Archbishop Emeritus Tutu: SA's Myanmar vote at UN a mistake

'betrayal of his country's noble past' earlier this year, it was this reciprocal nature of the relationship between the two that he was concerned about.

If we agree that South Africa's foreign policy indeed derives its legitimacy from the normative values that underpin its domestic governance, it logically follows that such values need to be nurtured at home. Given the multi-layered and diverse nature of our country, solutions to both the 'old' and the 'new' challenges, such as HIV/AIDS, crime and education, need to be pursued with the same principled commitment to consensus and inclusiveness that laid the foundation for our democratic state. This is not an easy task, but the price to pay for perceived marginalisation is a heavy one, as examples on both sides of the political spectrum have shown in recent years. To counter these tendencies, two conditions need to be met.

Figure 1: 'If public officials are not interested in hearing what people like me think, there is no way to make them listen.'



'If we agree that South Africa's foreign policy indeed derives its legitimacy from the normative values that underpin its domestic governance, it logically follows that such values need to be nurtured at home.'

The first, simplistic as it may sound, is for ordinary South Africans to increase the frequency of private interaction with people of groups other than their own. A basic, interpersonal consensus needs to develop, which gives recognition to the fact that we search for the common good of our country, regardless of the views we hold on an issue.

The 2006 results of the *SA Reconciliation Barometer (SARB) Survey* of the Institute for Justice and Reconciliation show that, as far as such communication is concerned, there is much room for improvement. A statistic that has been mentioned before in previous editions of this publication is the 56 per cent of South Africans who never have any informal social interaction with people from racial groups other than their own. The survey shows that a strong correlation between the frequency of informal inter-group interaction and material well-being exists and suggests that the latter is a significant predictor of the former. In other words, greater affluence increases opportunities for such interaction. Because race and class tend to overlap in South Africa, broad-based economic empowerment, with an emphasis on the magnitude of the base that it covers, has a critical role to play in creating more upward mobility, which in turn has the potential to stimulate higher levels of interaction and hopefully also understanding.

Whereas the first condition focuses on the communication amongst citizens, the second emphasises the relationship between citizens and

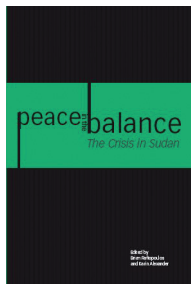
government. Currently much of the attention on the presidential succession debate is focused on the role that personality has played thus far in the country's governance. This has led to speculation about how the personalities of potential successors offer clues to the kind of governance that we can expect from them. Obviously all South Africans wish for a competent and empathetic leader to take over the reigns from President Thabo Mbeki, but it would be short-sighted to attach our hopes and aspirations for the country to presidential personality alone. While the public persona of the president might be familiar to an ordinary citizen, the identity of his or her member of parliament (MP) very often is not. Not surprising either then that 52 per cent of respondents in the 2006 round of the *SARB Survey* indicated that they agree with a statement that those who govern the country do not really care about people like them. Fifty-six per cent felt that it is not possible to hold civil servants accountable.

While levels of communication between citizens will require time and a measure of good economic fortune to develop, improved links between those entrusted with positions of power and ordinary South Africans can, if the political will exists, be created more expeditiously. One would hope that after the dust has settled in December around the question of our future leader's identity, attention will return to the broader democratic imperative for meaningful participation in democratic processes. How we deal with this issue has implications that reverberate beyond our borders, because as Deputy Minister Van der Merwe rightly points out: 'The universal values which South Africa strives to achieve are also those to which it aspires for Africa, the South and the rest of the world'.

Jan Hofmeyr is a senior researcher at the Institute for Justice and Reconciliation.

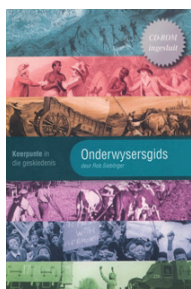
NEW PUBLICATIONS FROM THE INSTITUTE FOR JUSTICE AND RECONCILIATION

PEACE IN THE BALANCE THE CRISIS IN SUDAN



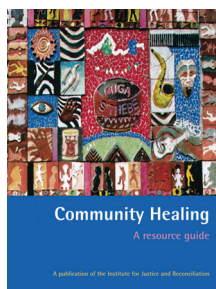
The ongoing crisis in Sudan is characteristic of the many challenges of nation-building on the African continent. Yet it has unique dynamics. Current attempts to end half a century of war, instability and state repression have led to a fragile peace. Sustaining this peace will demand all the efforts of national, regional and international actors. This book attempts to trace the origins of the problems, the ongoing conflicts and the huge challenges confronting the efforts to bring peace and reconciliation to this war torn country

KEERPUNTE IN DIE GESKIEDENIS



The *Turning Points in History* series has recently been released in an Afrikaans version, entitled *Keerpunte in die Geskiedenis*. Aimed at learners from grades 10 to 12, it comprises six text books and a teacher's guide that cover the most important turning points in South African history, from the earliest human settlements up to the latest political developments. It was written by 18 of the country's top historians and provides a variety of perspectives that will help readers to come to their own interpretation of South Africa's history.

COMMUNITY HEALING A RESOURCE GUIDE



The Truth and Reconciliation Commission brought home the extent to which apartheid left many South African communities traumatised and dysfunctional. *Community Healing: A resource guide* is the result of a series of initiatives by the Institute for Justice and Reconciliation to begin to address issues of collective trauma and healing. This guide offers: an overview and model for community healing; guidelines for implementing your own community healing initiatives; suggestions and step-by-step instructions for facilitators; case study information to show the process in action; web links and ideas for further investigation.

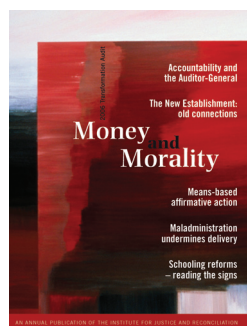
For an up to date resource on debates and media coverage of nation-building in South Africa, log on to the *SA Monitor* at:
www.ijr.org.za/politicalanalysis/samonitor

2006 TRANSFORMATION AUDIT – MONEY AND MORALITY

Edited by Susan Brown

South Africans are struggling to characterise the times we are living through. Is this a time of deepening social grievance, of political patronage and plunder? Or is it a season of hope and previously unimaginable opportunity for the majority?

The *2006 Transformation Audit – Money and Morality* is the third in a new series published by the Institute for Justice and Reconciliation. The series reviews the ways in which South Africa's changing economic system affects our political and social landscape.



This edition focuses on social capital and accountability as well as corruption and its costs. Corruption is defined broadly to encompass legal corruption, including mis-management, collusion, inertia and neglect, plus the more usual abuses of public office for private gain. The *2006 Transformation Audit – Money and Morality* asks whether the South African social contract of reconciliation and the rule of law is under threat.

I think it's very important in society that we have organisations like this who can be independent, who can be objective and who can raise the really tough questions and help us find solutions going forward.

Maria Ramos

SA RECONCILIATION BAROMETER SURVEY 2006

The *SA Reconciliation Barometer Survey* is an annual survey, conducted by the IJR, which tracks public responses to social transformation and its impact on national reconciliation. The survey report of the most recent round of the survey can now be accessed on our website at:

www.ijr.org.za

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