SA Reconciliation Barometer

Tracking socio-political trends

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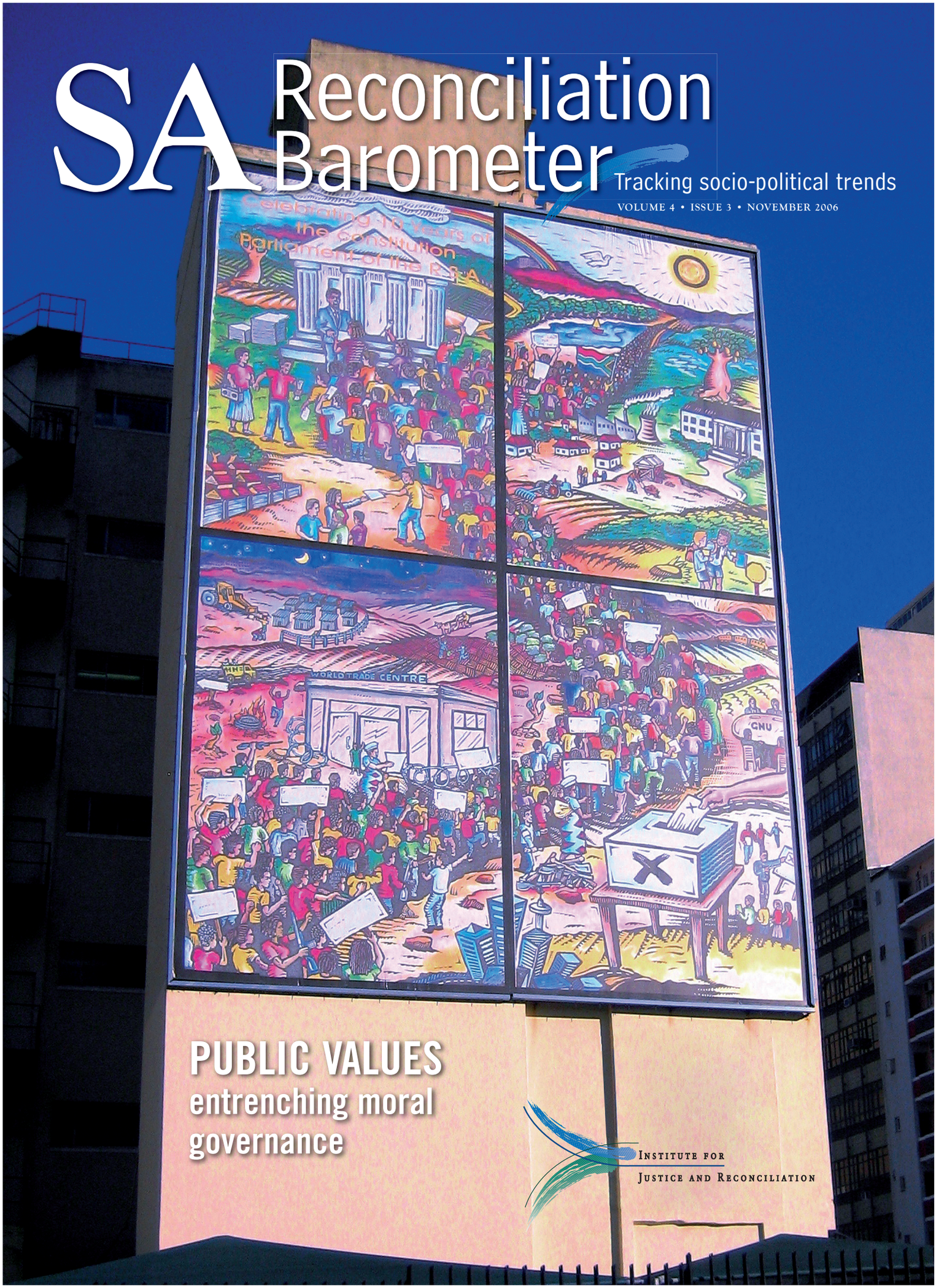
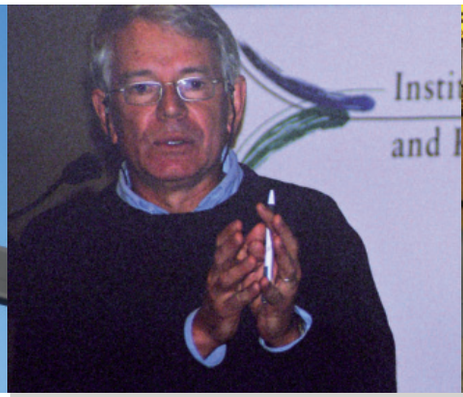


PUBLIC VALUES
entrenching moral governance

Institute for Justice and Reconciliation



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editorial

Over the past year several publications and public interventions of the Institute for Justice and Reconciliation (IJR) have dealt with the issue of ethical governance. For example, the previous edition of this publication paid attention to the strengthening of public institutions, while the recently-released *Transformation Audit* had the topic of 'Money and Morality' in the public sphere as its main theme. This emphasis is no coincidence. The Institute believes that we find ourselves at a critical and formative juncture in our development as a young democratic state. The public norms and standards that we set for ourselves today will inevitably shape the character of the South Africa our children will inherit.

It is, therefore, critical that we remain conscious of how public values evolve in our society. Those that will stand us in good stead must be prioritised, while those that threaten to corrupt the governance – and unavoidably also the soul – of this country must be discouraged with the strongest possible measures. This view is not a case of gratuitous moralising – it is the essential engagement that any nation has to have with its future. The surge in material prosperity that the country has experienced in recent years has bolstered government revenues and placed it in a position to allocate unprecedented amounts of money to social reconstruction, welfare, and poverty alleviation. Yet many at whom these funds were directed never saw it, because as benefits that accrued from public revenue windfalls increased, so did the temptation for public officials to derive private gain from it. Arguably many of these transgressions occurred in the vacuum where an entrenched public morality ought to have been.

Boom and bust cycles are economic realities and whether South Africans like it or not, we should be prepared for the day when the good times end. When they do end, will the country have fully exploited this present cycle of growth to the advantage of the most destitute? And will there be a value system in place that would, firstly, guarantee efficient delivery in the absence of excess revenues and, secondly, serve as a buffer from the full impact of bad governance and corruption? Seen from this perspective, the presence of ethical governance becomes an insurance policy that few states can afford to be without.

This edition of the *SA Reconciliation Barometer* features contributions that not only take stock of the impact and challenges of questionable governance practices to date, but also reflect on the values that ought to be entrenched in our society. Saki Macozoma and Jeremy Cronin, both members of the ANC's National Executive Committee, consider the need to prioritise public values for our young nation. Judith February and Perran Hahndiek from the Institute for Democracy in South Africa (Idasa) look at the highly publicised 'travelgate' affair and the impact that it has had on the confidence citizens place in the most visible symbol of democratic governance in this country, while the IJR's Sue Brown reflects on the issue of money and morality in the public sector. Some key findings about public opinion on government's commitment to clean governance, as suggested in the IJR's annual *SA Reconciliation Barometer Survey*, are also provided.

Because we are, today, laying the building blocks for tomorrow, debate on these issues cannot be deferred to a more convenient time in the future. We trust that this edition of the *SA Reconciliation Barometer* will contribute to keeping this debate alive.

Jan Hofmeyr
Project coordinator: *SA Reconciliation Barometer*

UNAMBIGUOUS ACTION AGAINST CORRUPTION MUST ENTRENCH ETHICAL GOVERNANCE

We need a stricter definition of corruption and more rigorous action to counter it, according to SUE BROWN, manager of IJR's political analysis unit.

The sound of that jingle before the news these days is depressing. It often heralds yet another in the now regular series of stories about greed, corruption and impunity. Imvume. Selebi. Gautrain. Post Office. 'Travelgate'. Reports and leaks are all over the media, but there are seldom public hearings or trials. Is this the new South Africa we had in mind?

The thematic focus of the IJR's *2006 Transformation Audit* – money and morality – enables us to present some studies which are relevant to ordinary South Africans' concerns about official malpractice, enrichment and advantage. However, investigative journalism is not the job of the Institute, hence our focus on key analytical elements of corruption and malpractice.

How we measure the cost of corruption to the economy as a whole was one of the first questions posed. Then the Audit looks at the workings of connectivity as the key to accessing wealth and protection. Next, connectivity dominates forms of corruption other than the classic crooked contracts or 'abuse of public goods for private gain', namely, the inertia, incompetence and malpractice of some public servants and contractors. In a review of municipal services in chapter four, it is suggested that, in a number of sectors, malpractice is in fact more pervasive – and more damaging to the poor – than grand theft.

This is a moot point. Certainly, more individuals may suffer from failures to deliver services – clean water, functional hospitals, electricity, housing – because of technically or managerially incompetent appointments. Furthermore, it can be argued that the extremely high profile escape from any accountability of those who have benefited from irregular enrichment is extremely damaging to the public system of values, as well as our expectations of justice.

Impunity also promotes the commonly heard argument that a given offence is not important when weighted against that of apartheid, or 'other' arms deal beneficiaries, or whoever is not under scrutiny. Naturally, such arguments are false: apartheid was an inherently corrupt system, which our current system is not designed to be. They are not comparable for that reason. And for that same reason, it is not acceptable for functionaries to take a leaf out of the apartheid book to justify their practices or arguments.

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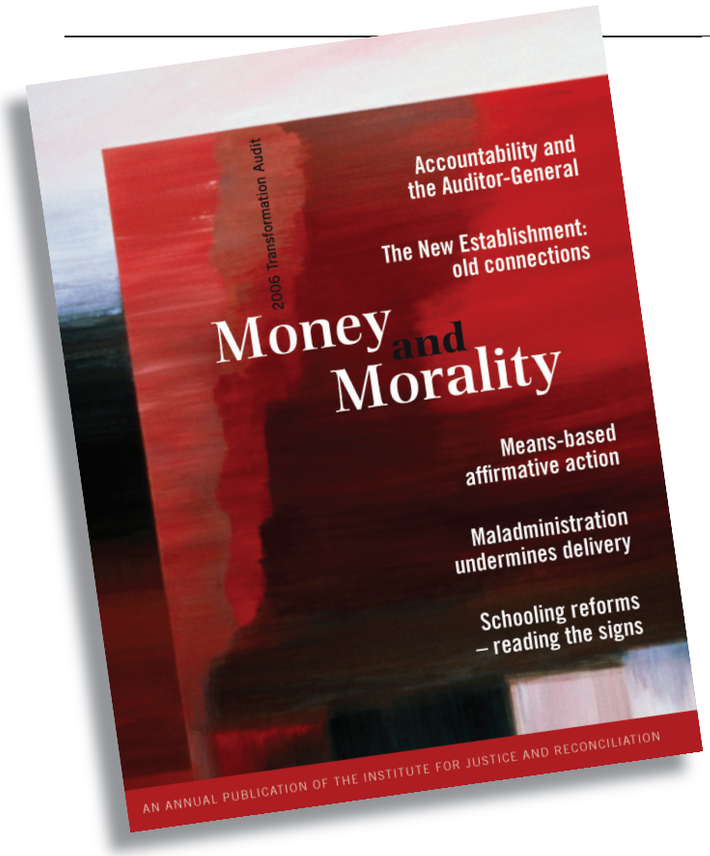

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Measuring the cost of corruption to the economy as a whole is tricky, as Ethel Hazelhurst's review spells out. South Africa's position on the Corruption Perception Index of Transparency International (TI), which reflects businesspeople and country analysts' perceptions, fell very marginally from 4.6 in 2004 to 4.5 in 2005. But South Africa is perhaps a point down from where it could expect to be, which the TI calculations estimate at amounting to a third of a point of GDP. This indicates that perceptions of corruption have led to lost opportunities.

This shift in perception may seem insignificant, though of course it predates the more spectacular recent developments. However, another survey on perceptions of corruption in South Africa indicated that while citizens and businesspeople have fairly high perceptions of corruption at 41 per cent, only 12 per cent of business refrained from investment because of corruption. The impact on investment does not seem high yet.

The most common areas of perceived corruption concerned seeking employment and the provision of electricity, water and housing, while business noted nepotism in job seeking, promotions and the provision of entitlements. In addition, customs, government procurement, police investigation and the obtaining of licences and permits (such as work and residence permits) were also corruption areas identified by business, according to Hazelhurst.

However, in the public's perception, an essential element of the workings of enrichment and corruption is connectivity: being a member of an in-group is the key to position, wealth and impunity in South Africa. The *2006 Transformation Audit* published the first version of the New Establishment list, which we intend to update each year. This chart attempts to lay out the present system's social capital, with its focus on high-leverage members of the new order with substantial levels of connectivity. As we have seen, members of the new establishment move between political office, the civil service and business, and so do their connections. The list we present here is focused on national-level players, though there are provincial- and local-level elites, which operate in much the same way.

This elite group, in addition to family links, is connected often by struggle and ANC backgrounds and, these days, often by business. The present profound ambiguity of the ANC about disciplining corrupt behaviour arises in part from the old values of solidarity and mutual protection, besides more venal interests. Also, however, we have the position of a present head office official that whatever protection the Constitution provides to an accused, the ANC will go further. This is a clear signal of impunity to a senior membership who fear displacement in 2009 and accordingly may choose rapid enrichment now. Of course, internationally, the lesson of the past decades has been that long-term immunity from prosecution cannot be guaranteed anywhere.

'…being a member of an in-group is the key to position, wealth and impunity in South Africa.'

In the public service, malpractice in this broad sense is also an important element of exploitation of the majority. Malpractice ranges from legal corruption (discussed below), inertia and neglect, through to mismanagement, self-enrichment and criminal corruption on the part of officials.

It is a truism among the masses that it is the well connected few who are getting rich as a result of political or other connections. Once again, the values of solidarity and mutual protection of the struggle years have become distorted in the context of access to public resources.

Nick Taylor's study on education draws a harrowing picture of the small proportion of time teachers spend in classrooms and of the amount of the syllabus they complete – not to mention the illiteracy and innumeracy levels of a startling proportion of a primary school sample.

It is important, therefore, to define corruption in more varieties than suggested by the conventional definition of 'abuse of public office for private gain'. It covers a spectrum extending from gross extortion and embezzlement to nepotism, maladministration, mismanagement and 'legal corruption'. The latter is described by Kaufmann and Vicente (2005) as 'arising when the elite prefer to hide corruption from the population'. A key element of legal corruption, as defined and tracked in this way, is that the relationship persists. A given individual may rotate in or out of government positions, but the net effect is that the partnership predictably wins out in any contractual competition over outsiders – and of course is provided with protection in case of calls for punishment.

Such practice defies conventional democratic practice, which dictates that outcomes, whether they are social, political, or economical, should be based on the best interests of citizens and determined by impartial institutions whose decisions are governed by the highest ethical standards. This principle ought to be entrenched at this early stage in our democratic history, both in the public and private sector. Failure to do so unambiguously may cost us dearly in future.

Debate on **public values** CANNOT BE DEFERRED

The post-democratic South African state is still in its infancy. In these formative years we should not postpone the entrenchment of the public values that characterise a caring society, writes JAN HOFMEYR, senior researcher at the Institute for Justice and Reconciliation.

In a speech earlier this year, in memory of former anti-apartheid activist, Harold Wolpe, one of South Africa's most revered optimists, Archbishop Desmond Tutu, confessed his naiveté about his expectations for a moral political leadership in post-apartheid South Africa. Reflecting on the issues of greed and corruption, Tutu noted that he has had to accept that we are no different from those before us who, in the wake of a political transition, have stumbled in pursuit of instant wealth.

Less than a month earlier, President Thabo Mbeki, in his Nelson Mandela Memorial Lecture, addressed the same topic from a different vantage point. Mbeki noted that the new South African nation has not yet been born, and hence we find ourselves at a critical and formative juncture. Therefore, according to the president, 'the great masses of our country every day pray that the new South Africa that is being born will be a good, a moral, a humane and a caring South Africa'. Implicit in his words was the caution that the values we choose to live by today will shape our destiny tomorrow. Thus Mbeki expressed his concern that, if uncontained, the unbridled pursuit of wealth may transform our society into one that is characterised by greed and a disregard for morality.

When one follows the president's reasoning that 'as the twig is bent, so the tree is inclined', the need for consistency in the entrenchment of such values becomes very apparent. This is, however, easier said than done because, by their very nature, value judgements are open to interpretation. So, for example, it might be argued that there is a very thin line between what one person would regard as ambition and what another would call greed. Such judgements depend on conscience and individual morality in as far as they fall within the ambits of legal conduct. It is interesting to note in this regard that in the most recent round of the *SA Reconciliation Barometer Survey (SARB Survey)*, which was conducted in April and May this year, 47.6 per cent of respondents indicated that, if given the opportunity, they would circumvent the law without actually breaking it.

However, when the border between the lawful and unlawful is crossed and greed evolves into corruption, the responsibility to uphold public values is inevitably shifted to the state. It has a duty to uphold these values vigilantly, especially in transitional contexts where the temptation to test the boundaries of tolerance is often bigger, and particularly when public officials and politicians are perceived to benefit from the transactions. Should leniency be exercised in cases where public money is involved, it will erode the very institutions that have been tasked with protecting and nurturing the values that we as a nation aspire to.

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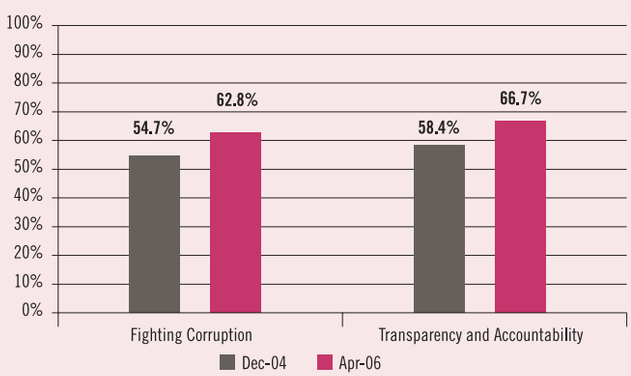
Figure 1: Public Approval of Government's Commitment to Good Governance ('How well would you say government is doing at a) Fighting corruption, and b) Maintaining transparency and accountability?')



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How successful has the South African government been in convincing the broader public about its commitment to clean governance? The results of the 2006 round of the *SARB Survey*, depicted in Figure 1, paint a positive picture. Just over 62 per cent of respondents either indicated that government was doing 'very well' or 'fairly well' in fighting corruption in government. In as far as the maintaining of transparency and accountability is concerned, almost 67 per cent of respondents signalled that the government was doing either 'very well' or 'fairly well' in this regard. As is evident in Figure 1, both scores represent increases on those that were recorded when the questions were first put to respondents in December 2004.

President Mbeki has, arguably, taken the lead in this regard. His brave decision to relieve former deputy president, Jacob Zuma, of his duties – against the background of intense controversy around the latter's person and alleged business dealings – has shown that the integrity of the Office of the Deputy weighs heavier than loyalty to a colleague. Much of the positive perception that exists around government efforts may also be explained by the increased prominence that has been given in recent years to the work of the Scorpions and the Asset Forfeiture Unit, both linked to the office of the National Directorate of Public Prosecutions (NDPP). Both have built up reputations as fearless crime fighters and have featured prominently in high profile corruption cases – not least of which, the prosecution of Schabir Shaik is an excellent example.

'Should leniency be exercised in cases where public money is involved, it will erode the very institutions that have been tasked with protecting and nurturing the values that we as a nation aspire to.'

These increases in positive perception of government's efforts are encouraging. Now the challenge is to consolidate and improve on this track record. Most certainly one of the important tests in months to come – not only for the governing party, but for all parties represented in parliament – will be to see whether further decisive steps will be taken against those implicated and convicted in the much-publicised 'travelgate' affair. Reported on elsewhere in this publication, the political response to this breach of trust between the elected and their representatives has thus far been weak and will have far-reaching implications for public trust in the country's highest legislative institution should the status quo continue unchallenged.

STRAIGHT TALK NEEDED to overcome current political impasse

President Thabo Mbeki's Nelson Mandela Memorial Lecture, which he delivered at Wits University in July, serves as a useful point of reference when thinking about public morality in present-day South Africa.

In his paper the president noted the desire of all citizens for a moral, humane and caring South Africa that is progressively able to guarantee the happiness of all who call this country home. He goes on to argue that such a society ought to be underpinned by the values of *ubuntu* and says that we must strive to implant it in the very bosom of the new South Africa. Moreover, he argues that in doing so we should understand and accept the fact that human beings have spiritual as well as physical needs and, hence, human societies also have a collective soul. The question, therefore, becomes: What is to become of the soul of the nation? As it evolves, what will the nature of the South African soul be and how will we ensure that it is moral, good and humane? Even though we can argue that our values are underpinned by *ubuntu*, Mbeki notes that ultimately struggle – rather than any self-evident and inevitable victory of good over evil – will determine the kind of society we will have. He strongly cautions against complacence stemming from the belief that just because we have particular values that underpin our society (such as *ubuntu*), the society we create will automatically be humane.

The president spells out in his paper what he regards as the biggest obstacles to the birth of a new, caring society. The first of these is what he calls 'the deification of personal wealth'; the second is personal enrichment at all costs; and the third, personal wealth when regarded as the only true measure of individual and social success. The consequence of all this, he notes, is permissiveness towards such crimes as theft and corruption, especially when they relate to public property.

I want to make a few observations in response to our president's words. Firstly, there are, in my opinion, signs of trouble. Indeed, there

Have we, out of fear, reverted to parables when tackling the real issues that face our country, asks SAKI MACOZOMA, an ANC National Executive Committee Member and Chairman of Stanlib.

is a deification of wealth and, indeed, there are South Africans who are willing to do everything to acquire such wealth. In our society today, philosophies and even theologies abound which justify the so-called 'Gospel of Prosperity' that glorifies the unbridled accumulation of wealth at all costs.

There is, however, a flipside to this coin, where people lack ambition and aspiration. When travelling the length and breadth of this country, you often see South Africans who have lost hope in life and who have no aspiration to do anything for themselves. I have seen too many people who are waiting for somebody to do something for them. Stanley Mogoba very aptly described these people as being like wheelbarrows – if you put them here today, they will wait for the government to move them tomorrow. Therefore, when we talk about the problems that arise out of avarice and greed, we should be mindful against creating a different problem – a situation where people are not willing to do anything for themselves because they expect everything to be done for them. But there is another reason why our critique of greed should be nuanced. The reality is that, besides wealth, people are motivated by rewards such as adulation and happiness. In our enthusiasm to slay unbridled materialism, we must be careful not to kill aspiration.

A third observation that I want to make is that we should be careful not to fall prey to the temptation of seeking power at all costs. To be frank, I believe that at present this threat is probably a bigger problem than some of the consequences of material greed in our society. Is there a relationship between the ruthless quest for power and greed? I am convinced that people often want total power at all costs because they think the only way they can grab, loot and steal is by creating a system that tolerates these kinds of behaviours. It is important for us, therefore, to acknowledge this clearly in our thinking and in our approach to fighting these evils. If there is, according to the president in his reference to Yeats, a 'beast that slouches out of Bethlehem to be born', we should remember that it is a two-headed beast – the one head representing greed and the other drunkenness for power. It is imperative that we understand their connectedness and relationship.

'There is the notion that this is a world of instant millionaires. People believe that they don't have to work…'

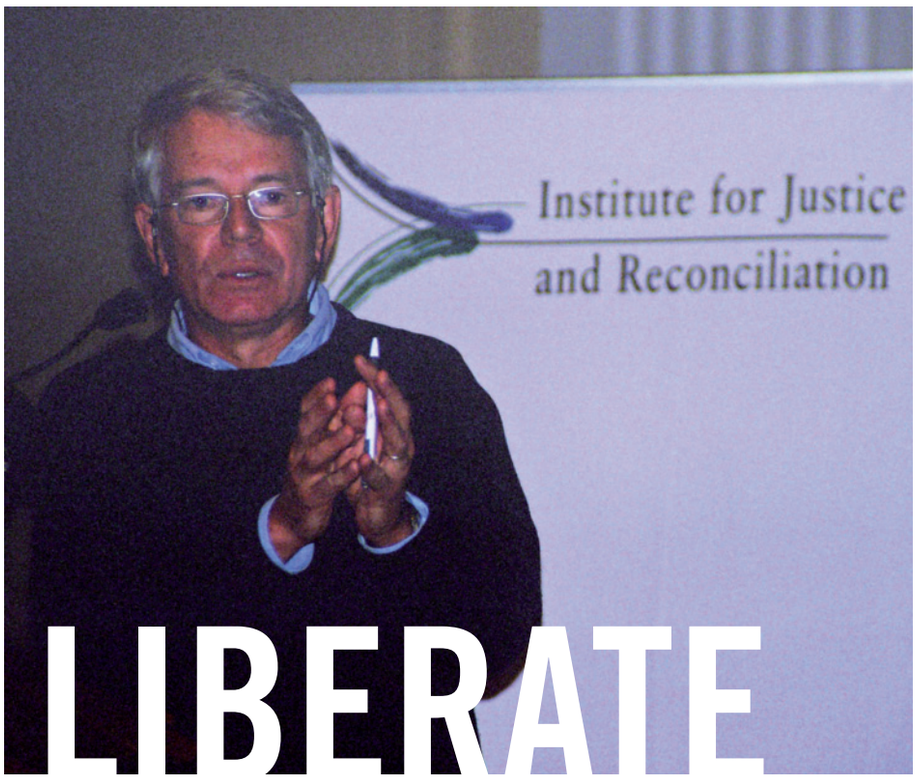
There is a fourth observation, or question rather, that I want to pose: given all these issues, what are the values that we ought to be teaching? The president makes the point that if we are going to triumph over evil in our society, we cannot solely rely on a residual kind of bedrock morality in our culture that we refer to as *ubuntu*. We have to actively teach the values of service and the pursuit of excellence. We also have to challenge the growth of the values we oppose. In so doing we have to make sure that we not only speak out against the values we don't like, but that we also come up with viable alternatives. I do not know whether our society – in its political, religious, or any other formations – is in fact geared to install the values that we need. We are not going to move forward if we are just in opposition to something.

In thinking about this, I remembered what Nietzsche said through the voice of Zarathustra: 'I conjure you, my brethren, remain true to the earth, and believe not those who speak unto you of super earthly hopes! Poisoners they are, whether they know it or not.' How do we deal with those who speak of 'super earthly hopes' or what Greenspan called 'irrational exuberance'? There is the notion that this is a world of instant millionaires. People believe that they don't have to work – they can just become instant millionaires. It happened once that while I was giving a young man a lift in my township in Port Elizabeth, he complimented me on my car. I told him that if he stayed at school and worked hard, he would also be able to afford a car like that in the future. His response was: 'No, no, I will win the lottery'. This is what we should be cautious of – the belief that there is a shortcut to prosperity. But that boy isn't so different from the analyst at the stock exchange who believes the only way to build a society and an economy is to post unnatural profits in every quarter, irrespective of the damage that it does to people and their environment.

What then are the values that we ought to be teaching? How should we be teaching them? How do we make sure that people understand that hard work is important and that there is a just reward for those who do so; and that a balance needs to be found in society between those who have and those who do not? These are the questions that ought to occupy our minds and dominate our discourse.

Fifthly and lastly, what are the political consequences and manifestations of the tendencies the president refers to in his paper, and how do we deal with them? I would want to appeal that we should be open and frank in our discussions about these things. Why is it that we are speaking in parables when we talk about these issues? Why are we being vague instead of saying what we know? Is it because we are afraid to confront these issues?

This is an edited version of a speech delivered by Saki Macozoma at an IJR Symposium with the theme, *Money and Morality: Prioritising Public Values.*



LIBERATE

SOUTH AFRICA from anti-public discourse

The boundaries that have been set by an elitist discourse continue to marginalise millions of South Africans, says deputy-general secretary of the South African Communist Party and member of the ANC's National Executive Committee, JEREMY CRONIN.

President Thabo Mbeki in his Nelson Mandela Memorial Lecture earlier this year attacked market fundamentalism and the way in which it has taken a grip on our society. I think that he was raising these issues, not in a timeless way, but because there is a problem in our society. There is an issue. What we fought for, struggled for – and what many people died for – is in danger of slipping out of our hands. Part of this relates to the issue of morality, to the soul of our society. President Mbeki said that 'many in our society, having absorbed the value system of the capitalist market, have come to the conclusion that for them personal fulfilment means personal enrichment at all costs'. I can strongly concur with that.

Why has the president made these points? Why did his speech resonate and receive such acclaim in our society? I believe it is because we all suspect there is a serious problem. The question of public morality in South Africa today can be traced back to the birth of our democracy. It was a particularly awful time in global terms. Neo-liberalism was triumphalist, with its advocacy of consumerism, of the market, of individualism, and with its deep antagonism towards public values. This context made it hard to find our own bearings in a new South Africa – morally, socially, politically and economically.

We need to understand that to this day this anti-public discourse is profoundly disempowering for millions of South Africans and billions of people around the world. Within this framework, the public sector and the broader public domain

are something that the small numbers of wealthy elite do not particularly need. For them it is essentially a negative factor, a tax burden. But for the poor the public sector is the one chance they have for getting education, for getting some kind of safety and security, some kind of healthcare and some kind of mobility when private cars are unaffordable. And so this discourse of devaluing the public sector and public values, which was prevalent in 1994, had a very disempowering impact on post-independent South Africa.

President Mbeki has critiqued this discourse and the values that inhabit it. But in the course of his lecture, he interestingly referred to King Canute, the king who tried vainly to hold back the incoming tide. He implied that he (Mbeki) also felt a little like King Canute, battling against a tide of accumulation and self-enrichment. I think that we are, indeed, in danger of becoming King Canute ourselves if all we do is moralise in the face of this tide. We need to be introspective and ask ourselves whether some of the things we are doing are not contributing to the very problems we are trying to address.

Somewhere between 1994 and 1996, in the economic-policy decisions that we made as the ANC, we drove a wedge between growth and development, and therefore between economic policy and moral purpose.

What happened during this period was that the moral imperative for development got dislocated from mainstream economic policy. We were told, for instance, that government 'was not an employment agency'. Job creation and other developmental objectives, we were informed, were the responsibility of the market. In terms of such thinking the only thing that we, as government, could do was to create market- and investor-friendly conditions. These things became overbearingly important at the expense of a people-driven, participatory approach to development. The message we sent was: *aluta discontinua* – thank you very much, that was a good struggle, but we are now in power and we will deliver.

And so transformation and development started to be conceptualised as redistribution out of capitalist growth. The capitalist market would grow, but how it grew did not particularly matter, as long as it reached 6 per cent. When it reached that level we would be able to have the fiscal resources to, as it were, redistribute change – technocratically and managerially – to people who were encouraged to think of themselves as consumers of change. This growth, which we prioritised, was not an innocent reality. It was based, in effect, on an accumulation path that dates back to the last quarter of the 19th century. What we have done as an ANC government since 1994 has been to stabilise and return to growth that same accumulation path, obviously with some redistribution and with a more non-racial character. But, essentially, it is an accumulation path which, like the late 19th century mining revolution in South Africa, has the curious feature of being simultaneously very capital intensive, while being reliant on a large pool of poor workers, so-called 'cheap labour' – in other words, a two-tier labour system and a polarised society.

The moral challenge that we have is, therefore, only partly due to greed and a lack of public values – both problems are, in a limited sense, as old as humanity itself. We are mainly dealing with historically specific issues. Some of them relate to the global environment, but many others have to do with deliberate policy choices which have unwittingly fed a series of moral, economic and social problems.

At the centre of this stands the policy focus on achieving market-driven growth, which has managed to reproduce a very problematic form of individualism. We used to talk about black people in general, and Africans in particular, being nationally oppressed. I do not remember anyone ever using the words 'historically disadvantaged individual' during the struggle. But that is now the discourse and it epitomises the paradigm within which we are operating. To be oppressed is to be systemically oppressed by a system – 'an injury to one is an injury to all' – and the solution to this historical oppression has to be systemic transformation. But when you talk about disadvantage (and an individual's disadvantage), you imply that the system is basically okay, you are just lacking some advantages within it. And when you call the disadvantage 'historic', then you are even saying the systemic problems are now 'just history'. Again, we get back into that redistribution model of change, instead of addressing the transformation of the fundamental realities of our society.

I welcome what President Mbeki has said in his critique of the prevailing consumerism that is so devouring both our society and our ANC-led movement. To take action against this we need to look at ourselves in the ANC, and we need to look at our policies. I offer by way of example some of the recent statements made by the inner circle of the Mbeki government. One very prominent member said that black Africans should go out and become 'filthy rich'. Another one said, 'I didn't struggle to be poor.' Another said, 'Why should black capitalists behave any differently from white capitalists?'

'Somewhere between 1994 and 1996, in the economic-policy decisions that we made as the ANC, we drove a wedge between growth and development, and therefore between economic policy and moral purpose.'

What has been encouraged is a sense of self-righteousness: I am historically disadvantaged, and I am self-righteously and individually entitled to a slice of the action. And when you fall out of the inner circle of promotion, or favouritism, or whatever, then the explanation has got to be 'a conspiracy' – and you demagogically call on millions of poor South Africans who are unemployed, who are disillusioned, who are marginalised, to follow you, to love you, and to see in you a mirror image of themselves as the disempowered, the marginalised, the neglected, and so forth.

Both approaches (market-driven growth and demagogic mobilisation around grievance) elide the systemic issues. As a result, there is an absence of a concrete programme of transformation and the lack of perspective on what the systemic issues are. This forces us in the direction of a narrow politics of politicians. It is the politics of the palace, of succession debates and factionalism, and not the politics of active citizens within a democratic society.

This is an edited version of a speech delivered by Jeremy Cronin at an IJR Symposium with the theme, *Money and Morality: Prioritising Public Values.*

WHEN **LAW-MAKERS** BECOME **LAW-BREAKERS**

‘Travelgate’ and its implications for ethical governance

The ‘travelgate’ saga has tainted the credibility of parliament, and political parties as well as citizens will have to demand higher levels of accountability from the country’s highest legislative institution, write JUDITH FEBRUARY and PERRAN HAHNDIEK.

Parliament lies at the heart of our new democracy. The standards it keeps, or does not keep, are crucial to the well-being of the whole nation and it is incumbent on the leaders in parliament to take steps to ensure that its integrity is beyond question. We should not have to be dragooned into setting high standards in public life. We should willingly seek maximum openness about what our public representatives do, and receive.

This is as true today as it was in 1996 when Kader Asmal said it.

Intrinsically connected to the advent of a new democratically elected parliament was an earnest attempt to build a culture of integrity amongst elected representatives. A code of ethics was drawn up for members of parliament (MPs) to declare their assets and the ethics committee was set up to further increase levels of accountability. The watchwords were transparency, accountability and openness. Over the years there have been several instances of non-disclosure which the committee was charged to deal with. Tony Yengeni, Mosiua Lekota, Welcome Msomi, Winnie Mandela and others have all had to deal with the ignominy of having to provide an explanation for non-disclosure to the ethics committee. Furthermore, the so-called ‘travelgate’ saga (one can’t seem to escape the Americanisation of scandal, even here) has provided us with an insight into a counter-culture – one that seemingly disregards transparency and accountability. This counter-culture represents wastefulness, greed, entitlement and abuse of privilege – a culture anathema to the founding values of the South African Constitution.

As the arms deal was a litmus test for South Africa’s democracy, so ‘travelgate’ is becoming the litmus test for parliament as an institution.

Looking back on the tawdry incident, the red flag should have been raised when the first two MPs were initially disciplined for the abuse of travel vouchers. In the course of 2003, parliament commissioned a forensic audit and called in the commercial crimes unit of the South African Police Service (SAPS) to assist with investigations into the abuse of travel vouchers by MPs. In 2004 the National Directorate of Public Prosecutions was approached and legal action initiated against a number of travel agents. Later the same year, amidst media speculation that some MPs were facing arrest, parliament agreed to debate the issue in the House. During the debate, members expressed concern at the amount of time the investigations were taking and the negative impact of the allegations on the integrity of parliament. Assurances were given by party spokespersons that decisive action would be taken against any MP who, when the law had taken its course, was found guilty of corruption.

These assurances were significant given that Sections 47 and 106 of the Constitution, relating to membership of the National Assembly and National Council of Provinces respectively, state that citizens may only be disqualified from membership ‘when convicted of an offence and sentenced to more than 12 months imprisonment without the option of a fine (and) no one may be regarded as having been sentenced until an appeal against the conviction or sentence has been determined, or until the time for an appeal has expired’. Furthermore, parliament itself is restricted in terms of the penalties it can impose on errant members. According to the current rules, the Speaker, after a disciplinary process, may only issue a reprimand of varying degrees of severity and, where necessary, call for remedial action, such as the repayment to parliament of misappropriated money. These provisions and limitations essentially place the onus on the various parties to ensure that MPs found guilty of criminal acts are appropriately disciplined.

During 2005, the first politicians were summoned to court on charges of defrauding parliament. Controversially, five serving ANC parliamentarians admitted guilt and entered into plea-agreements with the state, in terms of which they received fines and suspended sentences. Although this agreement did not legally disqualify them from membership of the legislature in terms of the Constitution, they were eventually forced to resign, albeit after a considerable delay. This was an important development as it established a precedent for other MPs implicated in the scandal.

In 2006 a further 16 politicians, including 10 still serving the ANC, admitted to fraud and corruption. Again the nature of the plea-agreements meant that they were not disqualified from membership, receiving suspended sentences and fines ranging from R25 000 to R120 000, with alternatives of three to five years in jail. Parliament has since established a disciplinary committee, yet because of the limited penalties available, pressure is again mounting on the individuals and the ANC generally, to take responsibility and prevent further and unnecessary damage to the institution.

'As the arms deal was a litmus test for South Africa's democracy, so 'travelgate' is becoming the litmus test for parliament as an institution.'

Ultimately, allegations of abuse of MPs' benefits, currently estimated at approximately R24 million, have become one of the most controversial affairs to beset South Africa's democratic parliament. The unprecedented numbers of public representatives implicated – to date, 21 past and present politicians have admitted guilt, with the possibility of more convictions in 2007 – together with the protracted investigations, claims that senior politicians have escaped prosecution and the sudden suspension and dismissal of Harry Charlton (the official who first reported the irregularities) have severely compromised the standing of a parliament struggling to assert its place in South Africa's political landscape. Charlton reportedly alleges that there are further allegations to come, possibly implicating high-ranking public representatives to the tune of R19 million.

The failure to release the forensic report, initially commissioned by parliament itself, has also left the public with more questions than answers. It has also regrettably served to reinforce the perception that parliament has been caught on the back foot on this issue.

No doubt, as the media continue to report on the matter, the failure to release the report will do nothing to inspire citizens' confidence in parliament. For if the Charlton allegations are true, it seems the fraud uncovered so far is only the tip of the iceberg. It is for this reason that the forensic report is important. Surely the public has the right to know the details of the fraud committed and how it was perpetrated? Parliament chose not to hold the scheduled press conference at which the presiding officers were to have reported back on the outcome of the forensic report. While there is indeed a case to be made that certain sections of the forensic report would need to be kept confidential lest their publication prejudice the outcome of any subsequent criminal trials should these occur, the *Promotion of Access to Information Act,* however, makes provision for certain information to be detached from the main body in order that the information released does not prejudice anyone. By failing to release the report, parliament continues to miss an opportunity to reassert its authority and independence, and to appear pro-active rather than re-active.

While political parties wait for parliament's limited disciplinary process to slowly unfold, the current situation remains deeply paradoxical – law-makers have become law-breakers and still comfortably hold their seats. In a society with such high levels of inequality and increasing levels of corruption, surely this is an untenable situation?

That parliament has been tainted, there is no doubt. Institutions are rarely irredeemable though, and so the demand for accountability should come not only from within political parties but also from citizens. Those found guilty, irrespective of the terms of the plea-agreements, should vacate their seats. Now, more than ever, the ambition and openness expressed by Kader Asmal in 1996 needs to be rekindled and reclaimed.

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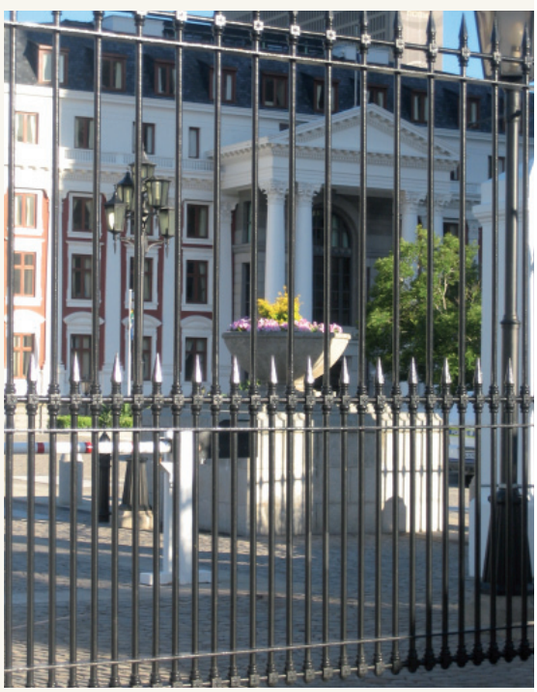


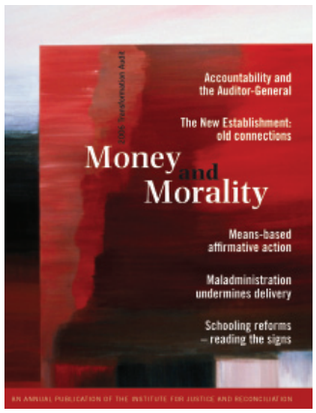
NEW PUBLICATIONS FROM THE INSTITUTE FOR JUSTICE AND RECONCILIATION

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

STORIES OP DIE WIND

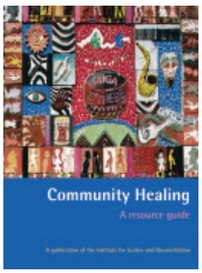
'N HANDLEIDING VIR OPVOEDERS OOR NOORD-KAAPSE VOLKSVERHALE

This publication serves as a guide for educators who use folk tales in various educational contexts. It encourages the use of such tales within this environment and at the same time articulates and gives recognition to the indigenous knowledge and wisdom of the San and Nama people of the Northern Cape. As a result of exposure to these tales, a platform is created for the voices of these communities that have been silenced by colonialism and apartheid.

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

COMMUNITY HEALING

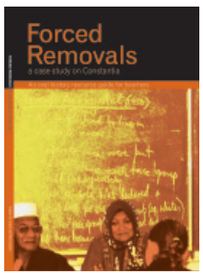
A RESOURCE GUIDE



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 of 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.

FORCED REMOVALS: A CASE STUDY ON CONSTANTIA

AN ORAL HISTORY RESOURCE GUIDE FOR TEACHERS



History should be a process of enquiry and debate based on evidence from the past, both written and oral. Learners must be given opportunities for 'doing history' as historians do it: constructing historical knowledge from evidence derived from historical sources. This publication, the result of one such process of 'doing history', tells the story of forced removals from Constantia. In addition, it illustrates how an interactive oral history project can be conducted within the parameters of the National Curriculum Statement. It is aimed at Grade 11 History teachers, but the activities can be adapted for any high-school grade.

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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