

SA Reconciliation Barometer

Tracking socio-political trends

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**SOCIO-ECONOMIC JUSTICE
AND RECONCILIATION**

**THE KHULUMANI LAWSUIT:
Hope for apartheid victims?**

**POLOKWANE:
A return to the politics
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The uneasy peace**



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editorial

The Day of Reconciliation on 16 December will this year probably be overshadowed by the start of another event that has captured front pages for the past two years. On this same day the 52nd National Conference of the African National Congress (ANC) starts in Polokwane, the capital of the country's most northern province, Limpopo. After a year of intense speculation, South Africans will know who the leader of its dominant political party will be.

By its own admission, the rifts that have been caused by the leadership contest have not been good for the ANC. It has clearly divided the party into different camps. But what broader impact has this power struggle had on the actual society being governed by an ANC government? Ebrahim Fakir, who deals with this question in his contribution to this last issue of the *SA Reconciliation Barometer* for 2007, suggests that the discourses that have evolved alongside the two main protagonists – one essentially populist and the other predominantly technocratic – have failed to give proper recognition to the voices of ordinary citizens. Should such rhetoric eventually materialise in the form of policy, the ANC stands to squander one of its greatest attributes, the ability to engage ordinary people, regardless of who gets the ultimate nod from delegates in Polokwane. This will obviously also have implications for its ability to mobilise initiatives that promote greater unity amongst all South Africans.

In this regard, we also publish key findings relating to South African public opinion about relations between South Africa's constitutive population groups that emanate from the latest round of the Institute's *SA Reconciliation Barometer Survey*. Judging by the experiences of ordinary South Africans, great strides have been made over the past thirteen years in this regard. Yet informal contact between ordinary people of different races remains low and still poses a significant obstacle to the normalisation of relations between those that call this country home.

In addition, this issue looks at the significance of South Africa's rugby world cup victory for the process of nation-building, as well as the role that the public and private media can play in this regard. Pieter van Gylswyk, head of the IJR's Transitional Justice in Africa Programme, shares his thoughts on the prospects for peace in Sudan after a recent visit to the southern part of this war-torn country. Another contribution comes from Marjorie Jobson, acting director of the Khulumani Support Group, and Tshepo Madlingozi, its advocacy coordinator, who discuss the impact of Khulumani's successful appeal in an American court against an earlier finding that a class action suit against multinational companies that did business with apartheid South Africa could not be heard before it.

Charles Villa-Vicencio writes for this publication for the last time in his capacity as Executive Director of the IJR, and reflects in his *Note from the Executive Director* on the positioning of the IJR as a civil society organisation serving the cause of justice and national reconciliation, but acutely aware that dogmatic approaches to either will not bring us any closer to the normalisation of South African society. He notes that while the repression of the past should not be forgotten, we should now focus our attention on the legacy of injustice that it has left in the form of socio-economic inequality.

We would also like to pay tribute to Charles here for the central role that he has played in bringing the Institute for Justice and Reconciliation into life, and for the dynamic leadership that has seen it grow from strength to strength. It is his passion for a just, people-centred society that has constantly driven the Institute to new heights, and it is this ethos that will continue to inspire it in the future.

We would like to wish all our readers a happy festive season and a good start to the new year.

Jan Hofmeyr

Jan Hofmeyr is editor of the *SA Reconciliation Barometer* and Senior Researcher at the Institute for Justice and Reconciliation.

Socio-economic JUSTICE and RECONCILIATION

The Institute for Justice and Reconciliation (IJR) was born on 10 May 2000. The second democratic election had taken place twelve months earlier, and the persistent challenges that we had tended to play down amidst the euphoria of the Mandela years, were beginning to bite. Civil society was targeting the major challenges facing the nation with a new sense of commitment: poverty, job creation, HIV and Aids, education, gender, children's rights, human rights and an array of Truth and Reconciliation Commission (TRC) concerns. These ranged from the need for prosecutions and reparations, to truth recovery, memory and the need for access to the TRC's archives. There was often spirited competition between groups focusing on these different needs. At times there was discord, especially between those favouring justice (which usually meant prosecutions) and those stressing the importance of reconciliation as an inclusive category with a range of historical, socio-economic and subjective concerns.

Given this tension, the Institute sought from its inception to shape its identity through a commitment to a holistic form of both justice and reconciliation. This commitment continues to be a guiding principle in all that we do, driven as we are by the belief that those who ideologically and evangelically drive a single agenda, whether this be prosecutorial justice or simple forms of reconciliation, are not helping the nation overcome the challenges it faces.


If the SA Reconciliation Barometer Survey has taught us anything in recent years, it is that the question of prosecution, reparations and related TRC matters cannot be viewed in isolation from the socio-economic and political dynamism that characterises present-day South Africa. Income inequality has, for example, topped a list of the most divisive aspects of South African life in the three most recent rounds of our survey. Race shares second place with prejudice against people with HIV/Aids on the list of divisive characteristics in our society.

This is not to suggest that TRC-related issues of prosecution and reparations for past injustices are not important, but only that poverty,

job-creation, healthcare and related concerns, many of which are a direct consequence of past injustices, are high priorities on the nation-building agenda. A prerequisite for this to happen is the elimination of corruption, the upgrading of service delivery, the promotion of good governance and the redress of the absurd levels of greed and self-indulgence that have come to characterise large sections of South African society.

‘prosecution, reparations and related TRC matters cannot be viewed in isolation from the socio-economic and political dynamism that characterises present-day South Africa’

Unless these concerns are addressed in the next few years, the political gains made since 1994 are likely to be lost in the turmoil of social discontent and political strife. In brief, a commitment to justice and reconciliation requires more attention to be given to poverty relief, job creation and economic transformation as a basis for building relationships between former enemies and adversaries. These issues are perhaps more important than the hunting down of perpetrators from the apartheid era.

This suggests South Africa is slowly becoming a 'normal' society – at least in the sense of being faced with similar challenges to those in any other developing state. The trick is to ensure that it does not get trapped in the quagmire that has sapped any sense of hope out of many states on the African continent and elsewhere. 

Charles Villa-Vicencio is the Executive Director of the Institute for Justice and Reconciliation.

THE KHULUMANI LAWSUIT

Hope for apartheid victims?

On 12 October, 2007, the Second Circuit Court of Appeal in New York issued its ruling in the *Khulumani et al v. Barclays et al* lawsuit. The court reversed the decision of the district court on the Alien Tort Statute claims, and held that aiding and abetting liability exists and can be pleaded under the Alien Tort Statute. The 2004 Alien Tort Claims Act (ATCA) gives foreigners the right to institute lawsuits in the United States for human rights abuses committed anywhere in the world.

The panel of judges ruled that the Khulumani case should be sent back to the district court for further proceedings. The lawsuit sues 23 foreign corporations for aiding and abetting the apartheid government in the perpetration of human-rights atrocities on behalf of specified individual victims who are demanding compensation for damages.

This lawsuit should be understood in the context of the South African government's failure to make good on its promises of reparations, or to deal comprehensively with the lifelong consequences to survivors of the gross human-rights abuses resulting from their stand against apartheid.

None of the companies being sued engaged with the Truth and Reconciliation Commission (TRC) or applied for amnesty. None of them acknowledged the TRC's findings on the business community's complicity with the apartheid regime, namely, '[b]usiness was central to the economy that sustained the South African state during the apartheid years'; '[b]usiness failed in the hearings to take responsibility for its involvement in state security initiatives specifically designed to sustain apartheid rule'; and 'banks that gave financial support to the apartheid state were accomplices to a criminal government that consistently violated international law'. 'None of the companies has instituted reparations for victims of gross human-rights violations.

The Khulumani case alleges that the named defendants violated the ATCA and customary international law by aiding and abetting the crimes of apartheid and that the corporations acted with an unjustifiably high risk of harm to the oppressed population of South Africa. This risk was either known, or was so obvious that it should have been known. The defendants are therefore liable for damages, as well as any other appropriate equitable relief ordered by the court.



The Khulumani lawsuit was lodged after consultations with the South African government, which initially stated that it would adopt a neutral stance. Government changed its position in 2002, and has since gone to great lengths to oppose the lawsuit. Former Minister of Justice and Constitutional Development, Penuell Maduna, submitted an *ex parte* declaration opposing the lawsuit to the district court in July 2003, claiming that the litigation undermines South Africa's sovereignty; that it will undermine South Africa's reconciliation and transformation processes; and that it will hinder foreign direct investment and thus negatively impact on the South African economy.

None of these claims has any substance. The claim that trying this case in a foreign court undermines South Africa's sovereignty would only be legitimate if such cases could be filed in a South African court. The ATCA legislation is unique in allowing foreign nationals to sue any private actor in the US courts, and cases must first prove that there is no other forum in which the case could be heard.


The claim that the litigation undermines South Africa's own reconciliation and reparations processes has been met with stern opposition. The majority of TRC members, including Archbishop Emeritus Desmond Tutu, submitted an *amicus curiae* brief to the New York court in support of the litigation.



A positive outcome in the Khulumani Support Group's class action law suit against several multinational companies, will go a long way to resolve some of the unfinished business of the Truth and Reconciliation Commission (TRC), write MARJORY JOBSON and TSHEPO MADLINGOZI.

to dictate to governments that threatens national sovereignty. The investment carrot that multinationals dangle in front of national governments often comes with the proviso that social responsibility ends where it starts to impact on their profit margins. Increasingly, governments have been co-opted into the corporate business agenda – many members of government entered politics from the business world or have direct business interests. This means that states are often compromised when it comes to the policing and enforcement of the human-rights standards of multinationals. In South Africa, for example, the Daimler-Chrysler subsidiary, African Defence Systems (ADS), has been associated with allegedly bribing politicians with massively discounted vehicles. DaimlerChrysler is a defendant in the Khulumani lawsuit.

Given the difficulty of holding multinationals accountable, the Khulumani lawsuit has particular international significance. It is a *post-facto* attempt to ensure that corporate investment in illegitimate regimes is properly censured – and that a ruling against the corporations named in this complaint will deter these and other corporations from doing business that aids and abets other illegitimate and criminal regimes.

The ATCA remains one of the only effective tools by which the extraordinary trans-national power of corporations can be reined in. If successful, the Khulumani lawsuit would provide a useful means of ensuring some form of corporate accountability for the kind of human-rights violations that have become almost commonplace in corporate activity in the developing world. Indeed, this lawsuit could influence the way South African corporations themselves do business in other parts of the continent, especially where they are operating under repressive regimes. Further, a positive outcome in this case will go a long way to resolve some of the unfinished business of the TRC, thereby contributing to more meaningful and sustainable social reconciliation and substantive justice. 

Dr Marjorie Jobson is the Acting Director of the Khulumani Support Group and Mr Tshepo Madlingozi its Advocacy Coordinator.

The claim that the litigation will impede foreign direct investment is a contested view. Nobel laureate economist Joseph Stiglitz has pointed out that, on the contrary, 'addressing corporate misconduct [in fact] brings confidence to consumers and markets'.

The South African government's affidavit in the Khulumani case has had a powerful negative impact on other victims of human rights abuses seeking to use the ATCA. For 50 years, 'comfort women' from Japan and other Asian countries have struggled to claim compensation for being used as bonded sex slaves by the Japanese military during World War Two. In 2005, the USA district court dismissed the case, citing the Maduna affidavit in rejecting the claim.

When the appeal hearing on the apartheid claims took place in New York in January 2006, government tabled an *amicus curiae* brief supporting the defending companies. The Minister of Justice and Constitutional Development, Brigitte Mabandla, was sent to attend the hearing. It is the ruling of this court that has now been made.

To the extent that multinationals can buy influence, democracy no longer exists as 'one person, one vote'. Clearly, these dynamics bedevil the South African government's stance on the Khulumani lawsuit. While government argues that the lawsuit undermines South Africa's sovereignty, it may actually be the power of multinational corporations

Although it would be an oversimplification to equate interracial contact between South Africans with reconciliation, it does provide an important indicator of our progress towards a normalised society. JAN HOFMEYR presents some of the SA Reconciliation Barometer Survey's latest findings on contact between the country's racial groups.

RACE

AND RECONCILIATION

The question of national reconciliation cannot simply be reduced to questions of race and racial prejudice. This is clearly illustrated by the fact that respondents in the 2007 Reconciliation Barometer Survey have identified income inequality, above race, as the most powerful source of division in present-day South Africa. Around 31 per cent of the nationally representative sample noted that income inequality is the major obstacle to the achievement of a unified nation. Race and the prejudice that exists around the question of HIV/AIDS shared the second spot with 21 per cent each.

Yet, given the fact that race existed as the organising principle of apartheid, national unity would be impossible without racial reconciliation. As Jim Gibson notes in his book, *Overcoming Apartheid: Can Truth Reconcile a Divided Nation*: '... interracial reconciliation is perhaps the bedrock without which all other forms of reconciliation is devoid of meaning'. This is borne out by our survey results, which suggest that vulnerability to poverty and disease in South Africa largely overlaps with the phenomenon of race. It is therefore also not surprising that those who have identified income inequality as a primary obstacle, have reported race as the second most significant obstacle, and vice versa for those who opted for race as the country's most defining cause of division.

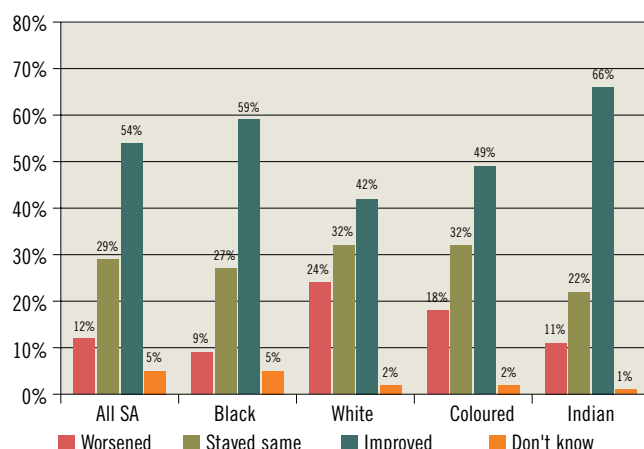
While some continue to equate South Africa's peaceful political transition in 1994 with national reconciliation, this is an oversimplification of the reality. At the time, most ordinary South Africans within the country's historically defined groups were still worlds apart from each other, and hence the negotiated pact at the CODESA talks can at best be termed as a form of political-elite reconciliation. While discriminatory legislation has been scrapped from our statute books and legal obstacles to integration have disappeared, there are those who doubt whether reconciliation has taken root. In a piece entitled, *The Natives are Restless* (2006), Jonathan Jansen recently suggested that now, more than ever, we need to bring people together to talk about the past. Jansen expressed his concern when he noted that:

I sometimes get angry that we had an elite reconciliation, one in which our racially divided political masters resolved differences, went fishing together and negotiated freedom, without a similar process available to ordinary South Africans. There is no manual in CNA or Exclusive Books on racial reconciliation and social justice for citizens as they live and work alongside each other in the heat of day.

How far have South Africans progressed on the question of racial reconciliation? As part of a measurement to establish perceived change over time on a number of important social issues, the 2007 round of the South African Reconciliation Barometer Survey has asked

respondents the following question: If you have to compare the South Africa of today with the country that it was in 1994 when it became a democracy, would you say that *race relations* have improved a great deal, improved somewhat, stayed the same, worsened somewhat, or worsened a great deal?

Figure 1: Race relations today compared to 1994



Source: SARB 2007

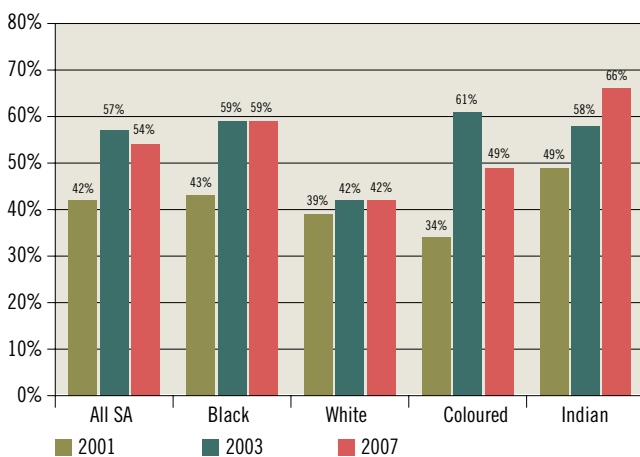
The findings presented in Figure 1 show that in 2007, 54 per cent of South Africans believed that race relations have improved since 1994. Twenty-nine per cent thought they have stayed the same, and 12 per cent sensed a worsening in inter-group relations. Viewed from another perspective we can conclude that 41 per cent of South Africans have not experienced an improvement in race relations over the past thirteen years. Figure 1 also provides a breakdown of responses to the same question by South Africa's historically defined racial groups. It shows that in 2007 more than half of black Africans and Indians experienced an improvement in relations compared to that of 1994, while less than half of coloured and white respondents felt that this was the case.

The 2007 results do not point to a significant difference between the responses of younger and older generations of South Africans. Amongst respondents aged 35 and older, 52 per cent experienced an improvement in race relations, compared to the 56 per cent of those younger than 35. A provincial comparison shows that residents of the Free State were the least likely to report an improvement in race relations, with only 46 per cent who felt that this was the case. On the other end of the spectrum is the Eastern Cape where 60 per cent of respondents reported an improvement on the same measurement.



When evaluating these findings it is important to contextualise them. We have to know whether South Africans have experienced a progressive improvement in race relations over time, whether they feel that it has stagnated, or worse still, whether it is being perceived as having deteriorated in the years since 1994. Since this was the first round in which we have posed this question, the SARB Survey is unable to offer comparable data. The Human Sciences Research Council (HSRC) however posed a very similar question in its South African Social Attitudes Survey (SASAS) which was conducted in 2001 and 2003. While results may have been influenced by different data-collection methods, the SASAS data provides a useful guideline against which the SARB 2007 results can be measured. In both SASAS surveys respondents were asked: 'Since 1994, do you think that race relations in the country have improved, remained the same, or deteriorated?'

Figure 2: Changing public opinion of race relations in 2001, 2003 and 2007




Source 2001: SASAS 2001, Source: 2003: SASAS 2003, Source 2007: SARB 2007

In terms of the SASAS 2001 data, 42 per cent of South Africans felt at the time that race relations have improved since the termination of the apartheid state (see Figure 2). Two years later in 2003 the figure shot up by 15 per cent to 57 per cent. When these findings are compared against that of the SARB 2007 data, it shows that the most recent findings represent a 12 per cent increase from 2001, but a 3 per decline from the SASAS measurement in 2003. Between 2001 and 2003 all groups recorded increases ranging from the moderate 3 per cent of white respondents to the considerable 17 per cent amongst coloured respondents. Reported improvement between 2003 and 2007 has either stabilised or increased, with the one exception of the coloured respondent groups. In stark contrast to the significant increase in

positive evaluation between 2001 and 2003, the SARB 2007 data for this measurement show a 12 per cent decline. This finding points to the need for closer examination of the factors that could have contributed to this response.

Certainly one of the most important determinants of the quality of race relations is the amount of exposure that the country's historically defined racial groups have to each other. While legislated segregation has disappeared from our statutes, it has left a legacy of entrenched socialisation patterns in the form of unrepresentative workplaces and neighbourhoods dominated by particular racial groups. Since its inception the SARB has attempted to gauge the frequency of contact that occurs between South Africans of different racial groups. In the process we had to make a distinction between formalised contact that occurs as part of a normal daily routine and the more meaningful social interaction at the home of the respondent or his or her friends.

The results suggest that levels of interracial contact remain low. During this most recent round of the survey, 26 per cent of respondents indicated that they never talk to somebody from a different race on an ordinary day, while 48 per cent said that they have never socialised with people from groups other than their own. The positive news, however, is that the percentages of South Africans who have reported no interaction on both counts have declined considerably over the past year. Nationally there has been a 7 per cent decrease in respondents reporting no interaction at all, and an 8 per cent decrease amongst those who have never had social contact with groups other than their own. 

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ARE WE AN EVIL NATION?

South African online news website, News24.com, has quoted well-known forensic criminologist, Dr Irma Labuschagne, as saying, 'We are an incredibly evil nation', in a week that saw criminal intruders cutting off the fingers of an elderly women with garden shears. According to Labuschagne '... people in our country have never been angrier at each other' and she attributes this to unfulfilled expectations of material improvement that accompanied South Africa's political transition. She points out that it is this combination of frustration and poverty that distinguishes our country from a place like India where poverty also exists, but violent crime is far less common.

Do you agree that we have become an evil nation? The *SA Reconciliation Barometer* will address this question in our first issue of 2008. You can send your views to jhofmeyr@ijr.org.za.



SOUTH AFRICAN IDENTITY and the 2007 Rugby World Cup

Major sports events are not only marked by the levels of international publicity, they also produce markers of national consciousness, writes JANIS VAN DER WESTHUIZEN.

amidst all the fanfare of the Springbok victory during the 2007 World Cup, my abiding image is not that of Thabo Mbeki being hoisted on the shoulders of the victorious *Bokke*, but the nameless black, middle-aged woman interviewed on TV because she woke up at 03h00 in the morning to welcome the Boks back home at OR Tambo International Airport. Or consider the fact that the game between Mamelodi Sundowns and Arrows was brought forward by two hours so as not to clash with the Rugby World Cup finals. How do we explain these seemingly unprecedented social dynamics? To be sure, two processes are at work: that of international signalling as well as domestic identity re-construction. The latter in particular seems to have evolved over the past 17 years, slowly, like growth rings on a tree, suggestive of a constant shift in the sense of self that shapes what it means to be South African.

It was the 1995 Rugby World Cup that proved to be cathartic and thus galvanised, however fleetingly, a sense of national identity that became a cornerstone of Mandela's presidency. Subsequently, major sports events became a recognised strategy amongst political, sporting and corporate elites alike as the marketing tool to both brand the new South Africa globally and celebrate national identity internally. Hence the all-out quest to host not only the African Cup of Nations and the All-Africa Games, but also the failed attempt at the 2004 Olympics. However, if South Africa was branded as the 'Rainbow Nation' under Mandela, under Mbeki the (re)construction of South Africa's *African* identity became fundamental. The ill-fated attempt to host the 2006 Football World Cup resounded with a discourse emphasising the notion of Africa as the 'dispossessed' (in the sense of never having had the chance of hosting a soccer world cup) and given our infrastructure capacity, that South Africa was the 'obvious' choice. Similarly, the African motif featured in South Africa's hosting of the 2003 Cricket World Cup, with Zimbabwe and Kenya acting as secondary hosts, all in order to affirm South Africa's pan-African intentions. However, what made the 2003 Cricket World Cup really significant, was that it sought to 'Africanise' a sport which historically had been associated with the 'civilising' mission of the British Empire, and to reconfigure some of the inequalities within the broadly Anglo-Saxon cricketing world.


Again, emphasising the fact that it was 'Africa's turn', South Africa's successful bid for the 2010 Football World Cup was fundamentally framed by a discourse of African dispossession and yet instrumentally tied to the country's quest to punch above its weight in international affairs. 2010 is therefore not unrelated to the campaign for a seat on a reformed United Nations Security Council. In short, the initiatives in sport as much as in conventional diplomacy under Mbeki, all seek to underscore and project that fact that although South Africa is an African state, in Africa's relations with the world, it is *primus inter pares* ('first amongst equals').

Whilst international signalling constitutes the external face of nation 'branding', nation-building exercises represent the internal dimension of this marketing process. Like the external process, it is not without risk. For these kinds of processes are as likely to exacerbate divisions as they are to paper over them. Surveys conducted during Cape Town's bid for the 2004 Olympic Games, for example, revealed less enthusiasm amongst the well-off primarily due to concerns about higher residential rates and taxes. Zimbabwe's co-hosting of the 2003 Cricket World Cup invariably spilled-over into the acrimonious debate about the efficacy of South Africa's strategy of 'quiet diplomacy', with racial minority parties equating Pretoria's support for the tournament in Zimbabwe with continued sporting ties under apartheid South Africa.

Yet major sports events are not only marked by the levels of international publicity they produce, but as markers of national consciousness. Just as the age of a tree is revealed by its growth rings, major sports events – and the psychology that goes with them – are suggestive of a nation's shifting sense of self. For Germans, the 2006 soccer World Cup introduced a newfound sense of patriotism and contentment about their identity that had hitherto remained obscured. For the first time in many years, the flag was enthusiastically displayed on fans' faces, by cab drivers, apartment dwellers, and commuters on the U-Bahn. And the focus of their pride was a skilful, sexy national team that had succeeded under the coaching of the youthful Jürgen Klinsmann – against most expectations – to advance in the global rankings to gain a shot at the finals. A German friend even commented that the popularity of Klinsmann suggested a generational shift: the advance of a younger, more international Germany, confident and at ease with itself. There may be an analogy here with the Boks' coach, Jake White: despite the disregard and suspicion with which rugby's administrative clique viewed him, he led the Springboks to victory.

'...major sports events – and the psychology that goes with them – are suggestive of a nation's shifting sense of self'

Could the same be said of South Africa after the 2007 Rugby World Cup? If, to paraphrase Khadija Bradlo, 'boer' has become the new black – given the unprecedented mass appropriation of Springbok regalia – it may suggest two things. Firstly, that South Africans are driven by a need, nay, *thirst* for a national identity and secondly, that global events vindicating our achievements feed into that most primordial of South African identity myths, namely our exceptionalism. The nation-building project has been nourished for decades by the belief that the kinds of problems we have had to face (and how we have overcome them) make us utterly unique. In as much as the myth of exceptionalism cultivates the notion that we are not a relatively small African economy, it suggests that we are qualitatively able to occupy the room with the likes of India and Brazil, quantitatively three or four times larger. However, just as unpopular legislative reforms were passed under the nose of a distracted German public during last year's World Cup, Mahmood Sangaly notes that: 'our government has learned from Marie Antoinette. If there is no safety and security, give them sport'.

Whether 2007 will be marked off as a ring of growth, as it was for Germany, depends on the extent to which white South Africans also come to the party for soccer (assuming that administrators and sports bureaucrats get their house in order) to affirm that South Africa belongs to all who party in it. As 2010 host, South Africa faces an even bigger challenge, beyond the unification of its own people. Are football fans from Ghana, Cameroon and – dare we say it, even Nigeria – to be welcomed as fans and tourists or treated like *amakwerekwere*, intent upon taking away local jobs and exacerbating crime? That Berlin even used television advertisements on the underground to discourage xenophobia suggests the lengths to which the German authorities had gone to ensure the Cup went off smoothly. For here stands another opportunity to mark off a new growth ring: to *not* coalesce against 'them' as a means of creating an 'us'. 

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a number of conflations have animated the public discourse around the ANC's leadership debate in recent months. Their effect has been to distort a few of the key assumptions regarding the parameters within which this debate has taken place. In the process some who participated might have departed from premises that did not resemble reality. A few conceptual clarifications are in order.

The first of these distortions is that there is only one leadership race. As the debate has heated up over the past year, much of the sound and fury surrounding the 'succession question' has conflated the two distinct leadership races. One, the leadership within the ANC decided by party members at the organisation's elective conference this month. And two, the question of succession at the level of the state. To be sure – there is an inextricable link between them, given the nature of our party-list proportional representation system that determines the profile of parliament, which ultimately elects the president of the country. Obviously then, a dominant majority party like the ANC will hold sway in deciding who this will be. While this link is clear, it is nevertheless necessary to separate the two leadership races, since the factors that bear upon them – though interrelated and interdependent – are also distinct.

The second conceptual clarification relates to the fallacy of calling the leadership contest a matter of succession. The concept – with its notions of heredity bringing monarchies to mind – should have no place in a democracy. Besides, royal successions follow strict rules and protocols – not something that could be said about the nature of the leadership debate within the ANC, nor about its pretenders to the 'throne'.

While the media and the public are certainly guilty of seeing the situation in terms of succession, the ruling-party protagonists have entrenched this misperception. Their behaviour has often suggested that the ANC is indeed a dynasty, especially when the invocation of 'tradition' seems to refer to the 'appointment' of leaders rather than to their 'election'. This runs counter to the way the organisation wishes to be seen, namely, as a democratic movement with internal democratic processes.

Democratic politics is essentially a rational dialogue conducted via the skillful art of persuasion. Recent electoral battles within the ANC appear to have fundamentally shifted this ground in a more extreme direction. It is not that politics has shifted away from reason towards emotion; emotion has always been an indispensable tool in democratic politics (and of the politics of the ANC). No, the shift has been caused by a crescendo of *affectation* in relation to reason and emotion.

When reason employs or contends with emotion, it has a supporter or a rival respectively. That is why it not only survives, but flourishes. Affectation, on the contrary, preempts reason. Its appeal is sub-rational. In the prevailing culture of the leadership debate characterised as 'spectacle', it finds a particularly conducive environment to flourish in, because the images and invocations used in the rhetoric of the debate can bypass reason to speak directly to the senses. In the culture of the spectacle, we are everywhere surrounded by images which ceaselessly solicit our attention. Even words get pared down to mere letters and slogans, reducing communication to a transmission of images and symbols. To wit, the slogans such as

POLOKWANE

A return to the politics of public interest?

Two very different discourses have been associated with the two main protagonists in the ANC's leadership contest. EBRAHIM FAKIR argues that both might have neglected the centrality of ordinary South Africans in the country's governance.

'100 % Zulu boy', the singing of *uMshiniwam* – 'bring me my machine gun' – the spectacle outside Jacob Zuma's rape and corruption trails and the accompanying fanfare of bodyguards, phalanxes of motor cavalcades and his reception by adoring fans. Add to this heady mix, the heckling and booing of incumbents viewed as being on the opposite sides of the leadership debate when they have appeared at platforms such as funerals, state occasions and political rallies.

The rational foundations of democratic exchange carry in them the promise of freedom and justice. Reason is a product of reflection. Images, on the contrary, derive their force from immediacy. They wield tremendous power to seduce people with their raw, sensory urgency. This may in part explain the apparent transformation of politics in the ANC. It appears as if loaded slogans and struggle songs that call supporters to arms have been appropriated outside of the legitimate locations in which their meanings and resonance found a consensus in the culture of the ANC's strategic political ends.



Increasingly they have been re-appropriated to serve private and personal political ends and have consequently been de-contextualised and de-historicised.

Ideologically drained and historically vacuous, such compromised narratives perhaps announce the arrival of an ironic postmodern nationalism. But in reality, what is at stake here is not so much the politics minus memory and context, but the very battle for an appropriation within the ruling party, of memory, history, tradition and context. This in itself is problematic. In the interplay between structure and agency, the context itself has recognisably changed.

People and histories effectively disappear in a culture of the spectacle, even though the superficial impression may be to the contrary. Images as stereotyped representations increasingly replace real people and real histories.


This being the situation then, vigorous debate has turned into simulated debate. The insulation of politics from debasement would require it to be located in sites where sustained rational discussion can still take place, among the people themselves. The salvation and recovery of politics as rational, yet still emotional, can be sustained on a democratic basis in the reinvigoration of a civic society rather than within the confines of a political party.

The counter impulse to the type of leadership painted above is the type of leadership that posits itself in opposition within the ruling party leadership debate and characterises itself as 'stoic'. It eschews the spectacle. It counters itself as rational and deliberative – conducive to democracy, but in doing so, aggregates to itself the notion of the 'democratic'. It works on the principle discourse that because 'we know better', we will decide what is best. In doing so, it has eclipsed the democratic and substituted it with the developmental. And in doing this, it eschews the spectacle, and embraces the technical. Instead of being fixated upon the individual, it is obsessed with the instrumental, where the focus is not the people, but the procedural, the process and the institutional. Here the institutional does not exist to serve the individual, but the individual is tamed to serve the institutional.

In this apparent progressivism that is posited as the opposite of the spectacle in the leadership debate in the ANC, there is a larger ideological project lurking that attempts to impose upon the party an understanding of the nature of the relationship between it, the state, the market and society. In it the party is elevated above all the other spheres, directing the theatre on which their interplay is acted out.

'While the media and the public are certainly guilty of seeing the situation in terms of succession, the ruling-party protagonists have entrenched this misperception'

The lack of a decisive and defined role for the party, in this instance, has created the space for the unleashing of the worst of predatory instincts, where rational actor behaviour that seeks to maximise its own utility and advantage has rendered party, state, society and market the site of competition between enclaves of myopic and rapacious private interests. This may have unfortunate consequences for a public that stands outside the party – and may manifest itself in two ways: a predatory state and rampant market or, worse still, a combination of both.

With the ruling party engaged in the leadership debate, it is at an opportune moment to eschew the discourses that have pervaded it and to re-assert the 'public interest'. Civility itself has in recent months become a casualty. 

Ebrahim Fakir is a Senior Researcher at the Centre for Policy Studies.



NATIONAL RECONCILIATION

and the MEDIA

The national reconciliation project requires mutual respect for the other, but this should not be at the expense of a vigorous contestation of ideas, writes ZUBEIDA JAFFER.

This year has seen not only the ruling party wracked by divisions, but also the polarisation of the media. With the *Sunday Times* on one side of the divide and the South African Broadcasting Corporation (SABC) on the other, the clash represents the commercial print media versus public broadcasting.

There has been some concern that a polarised media will further exacerbate tensions within the population at large and bedevil efforts to strengthen national reconciliation.

On Reconciliation Day, it is useful to examine this concern and consider its implications.

The tension we are experiencing appears to be around what we consider to be the limits of our professional conduct. We no longer are arguing and fighting about the terms upon which we have agreed to reconcile. Those terms are clearly spelt out in the Constitution. We have constitutionally guaranteed freedom of speech, respect for the rule of law, equality before the law and acceptance that South Africa belongs to all who live in it. The Broadcasting Act and various other laws spell out noble principles that guide our work.

The dispute this year has come about over differences in how we implement these rules. The headlines of the *Sunday Times* have screamed out loud that the health minister is a 'liar and a thief'. In response, the SABC has withdrawn from the South African National Editors' Forum (SANEF). It has argued that the constitution states that every citizen has the right to be treated with dignity and respect. It has also taken the unprecedented step of allowing its CEO to take a party-political stand publicly. This does demonstrate considerable confusion about roles. Is it appropriate for a CEO of the public broadcaster to take up the cudgels of a political party or position? He should have left this to the news team to clarify their stance on how they intend covering the news broken by the Sunday newspaper. It would also have been more appropriate for this professional dispute to be contested within the confines of SANEF, where professional disputes belong. While it is important that the public is aware and informed of professional disputes, it is up to the professionals themselves to resolve them.

The interpretations of the rules can only take place on a case by case basis. Over time, we will build up a body of test cases that would guide us alongside the Constitution. We seem to forget that, as a new democracy, we have to test our boundaries constantly. We cannot draw on many precedents since we have only been a democracy for 13 years. We can of course refer to the experiences of other countries, but, in the end, we have to work out what suits us best ourselves.

Some have linked these tensions to the ever-present racial divide. They argue that there are two different world views in South Africa – black and white. They argue that the black view is often excluded from the media, especially the print media. These arguments ring true to many. Take for example the local newspaper in Cape Town where I live. When I open certain sections, there are many days when one is wont to believe that only white people live in Cape Town. There is nothing that reflects the cultural perspectives of people of colour.

This constitutes a very real problem. It is not only exclusion by omission but also the exclusion of an entire body of thinking.

Does this not speak to the way we in the media do our jobs? Should we not be scrupulously fair, and indicate that there are widely differing viewpoints on a particular matter if this be the case and thus create the space for a conversation to take place? How do we best do this?

This has indeed been an uncomfortable period. The intense divisions have at times made it impossible for the two sides to hear one another. It has also been a time of intense contestation of ideas, which has forced us to think deeply about our craft and our society. The one view appears to pit whites against blacks, suggesting that some are more African than others. The other view ignores completely that the racial divide continues to be one of the major fault lines in our society.

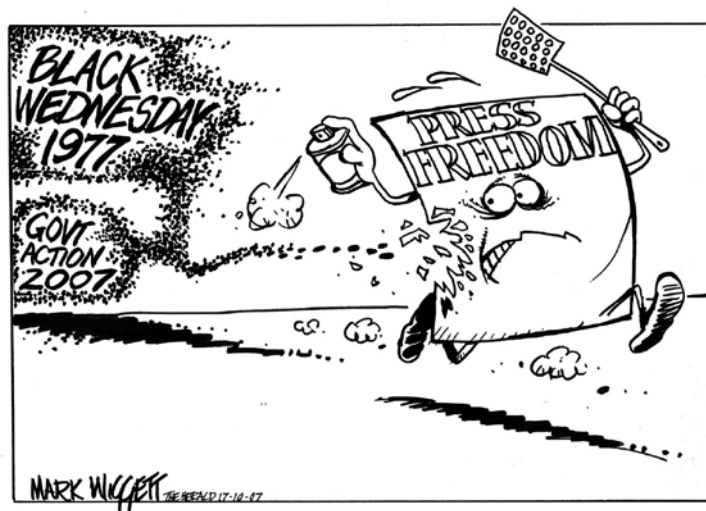
These squabbles therefore should not be seen as *disrupting* reconciliation. They should be seen as opportunities for clarifying the rules, thus further *enhancing* reconciliation.


This year has taught us to respect the views of others. We cannot proceed from the point that the *Sunday Times* knows it all, nor that the SABC does. It has been sad to see the denigration of individual journalists, with some accused of being lackeys of the opposition and others accused of being spokespersons for the government. Reconciliation will be well served if we can continue to disagree whilst respecting each other's right to his or her opinion.

Fortunately both the SABC and SANEF did provide healthy leadership in this regard. Despite the fights, they continued to organise the conference around the 30th Anniversary of Black Wednesday, where the arguments continued.

The national reconciliation project does not imply fake efforts to keep the peace without highlighting the contradictions and disagreements between us. It requires vigorous contestation of ideas, but at the same time, respect for one another. We are the pioneers of this new democracy, which places upon us an additional pressure to give careful thought before we speak or act. This year has seen too much spontaneous anger vented in all sorts of ways. Once words have been spoken or written, they cannot be withdrawn. The harm has been done. Vilification of an individual very seldom helps to solve a difficult problem.

Often it is hard to admit that each of us sees but a part of the whole, depending on where we find ourselves. Perhaps if we commit to cooperating and working for the common good, those little parts could come together to form a greater whole. The challenge is how to handle difference.



Many others have planted the seeds of this new democracy. It has been left to us to figure out how to make it grow, how much water it needs. Too little water will make it slowly shrivel up and die. Too much water will make it drown. How do we find the balance or develop what one of our leading intellectuals, Njabulo Ndebele, refers to as the 'art of the fine line', which is so essential for a reconciled past, present and future? 

Zubeida Jaffer, an award-winning journalist, is based at UCT's Centre for African Studies as a visiting associate.



SOUTHERN SUDAN THE UNEASY PEACE

To avert a resumption of Sudan's north/south war, opposing parties need to recommit themselves to Sudan's Comprehensive Peace Agreement, writes PIETER VAN GYLSWYK.

In October 2007, the IJR was involved in a curriculum-development workshop hosted by RECONCILE, a Southern Sudan based NGO, which is in the process of developing a three-month certificate course in the areas of Trauma Healing and Peace Building. The workshop, which took place in Yei, Southern Sudan, was an initiative of RECONCILE, the IJR, the Peace Centre of the Mindolo Ecumenical Foundation in Zambia, the Mennonite Central Committee, and Concerned Parents in Uganda.

While the workshop dwelled on themes relating to post-conflict transitional justice measures, the deliberations took place against the background of increasing tensions, which if unattended to might further postpone the ultimate objective of a post-conflict Sudan. In the wake of the Sudan People's Liberation Movement's (SPLM) announcement that it is suspending its participation in the country's Government of National Unity (GNU), the International Crisis Group has warned that the region might very well see the resumption of Sudan's north/south war, should the signatories to the 2005 Comprehensive Peace Agreement (CPA) not respect its implementation. During our period spent in Southern Sudan, the potential threat of the CPA unravelling was always present, which contributed to the local combined forces being placed on low alert.

The history of the conflict resides in the positions each party has taken regarding the rule of law, religion, representation and economic gains from natural resources. The insistence from the international community for a resolution to the civil war, coupled with increased economic strain in Sudan, compelled the parties in the north/south conflict to move towards negotiating a new constitution that encompassed the interests of all the Sudanese. The CPA was created through a combination of approaches in negotiations, the most significant being the use of single-text documents, which is demonstrated in the six protocols that constitute the final agreement. The international community – specifically the mediators that represented the Inter-Governmental Authority on Development (IGAD, consisting of Kenya, Uganda, Ethiopia and Eritrea) and the observer nations of the United States (US), the United Kingdom (UK), Norway and Italy – assisted in drawing up the 2005 CPA, which was signed in Naivasha, Kenya, on 9 January 2005.

In 2005 there was euphoria when the people of Sudan took to the streets congratulating, blessing, and hailing the end of Africa's longest civil war. However, since then the tempo of political change has slowed and what seemed to be a vision for a new Sudan led by the 'voice of the people' is now dismissed as political sloganeering with no resonance at grassroots. The optimism around the CPA has diminished swiftly, as dramatically characterised by the walk out of the SPLM, accusing the north of failing to implement the key provisions of the peace deal.

With only five years in which to establish a functioning Southern Sudanese administration able to deliver on the high expectations of the thousands of war-weary Southern Sudanese, time is of the essence.

It is not implausible that the SPLM is likely to dominate the southern political landscape for some time to come but it is clear that the frustrations around the slow implementation of the CPA are having a negative impact on the security of the region. This has been highlighted for example by the protests from unpaid SPLM soldiers around the Juba area last year and the sporadic low key clashes between the different military forces. The most disquieting of such clashes was between the SPLM and the national government's Sudan Armed Forces (SAF) in the oil-rich region of Malakal in November 2006 as evidence of the fragile status of the CPA.

The peace treaty between the north and south was supposed to address the issues of political exclusion which drove the southern rebels to arms, and it is the same issue that fuels the rebellion to the west, in Darfur, which has blown up into one of the world's worst humanitarian crises. For the most part, it has stopped the killing in the south, which during the 1980s and 1990s became a wasteland of burned villages. The SPLM accuses the government of President Omar al-Beshir of never having shown any willingness to agree to the spirit and letter that they committed to in the peace treaty, such as genuine power sharing, border demarcation, transparency in the oil sector, or to enable the census, crucial to the 2009 elections and the 2011 independence referendum.

Instead it has used every loophole to stall and violate the agreement. This may have gloomy implications for Darfur, where rebel leaders have pinned cooperation with the government on some of the very same points.

It was with reluctance that in response to the suspension, Bashir met a SPLM delegation led by Vice-Chairman Riek Machar and later




announced a cabinet reshuffle as part of acquiescing to the demands from the south. Even though the Sudanese leaders have agreed on a way out of the worst crisis so far since the implementation of the CPA, and the need for assurances that the CPA will now be implemented by the end of the year, such assurances should not be taken for granted.

While there are numerous causes for the current impasse between the SPLM and the NCP, the major sticking points appear to be over the unresolved question of the oil-rich Abyei region, the demarcation of the north-south border, and oil revenue sharing principles. The region was granted special administrative status by the CPA and given the option to decide in a referendum in 2011 whether to join the south. The Abyei Boundary Commission ruling was, however, disputed by the ruling NCP, leaving a political vacuum in a region with a significant percentage of Sudan's oil reserves. The north hoped to keep Abyei, though southern leaders had also claimed it. The Arab Misseriya and the Ngok Dinka ethnic groups have long held competing claims for access to the cattle grazing pastures and resources in Sudan's oil-rich Abyei region.

A natural resource sharing framework with appropriate mechanisms for joint supervision and full transparency in production rates and revenue disbursement would alleviate the north's fears that Abyei would join the south immediately and annex the oil reserves and revenues derived from them. If the National Government had a natural resource sharing framework in place with the Government of Southern Sudan, then the determination of the Abyei boundaries and the north-south boundary would be less politically charged. A temporary agreement that preserves an independent south's right to ownership of

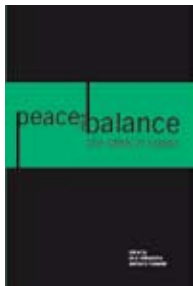
the resources, while still providing a stream of revenue to the north could be beneficial to all parties.

Few question the substance of the SPLM complaints and even United Nations Secretary General Ban Ki-moon was unusually blunt when he called on both parties, 'especially the National Congress Party', to work for the CPA. Unfortunately few Western and African (if any) countries have been even mildly critical of the Khartoum regime although they have called on the two parties to honour the CPA. Fewer still mention the fundamental contradiction in the accord: that the SPLM wants the CPA to succeed and the NCP wants the opposite – both because it will probably lead to Southern Sudan's independence. South Africa should heed the awkward reality that if Khartoum has reneged on its commitments under the CPA, there seems little prospect that it will keep any agreement it signs with regard to Darfur.

To understand the validity of the CPA and determine its strength and ability to maintain peace, it is necessary to examine the interests of the parties, the options for settlement and the premise on which the CPA is built. The CPA represents a constitution for a nation that has been engulfed in war; it is inclusive of all people and is ambitious in its rhetoric, which lends strength to a nation that is searching for common ground. If Sudan is able to successfully implement the conditions laid out in the CPA, then the nation can move forward with post-conflict reconstruction and build a foundation for governance and peace. 

Pieter van Gylswyk heads the Institute for Justice and Reconciliation's Transitional Justice in Africa Programme.

PEACE IN THE BALANCE THE CRISIS IN SUDAN



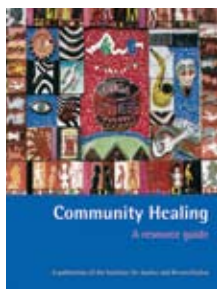
The ongoing crisis in Sudan is characteristic of the many challenges of nation-building on the African continent. Yet it has unique dynamics. Current attempts to end half a century of war, instability and state repression have led to a fragile peace. Sustaining this peace will demand all the efforts 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

STORIES OP DIE WIND: 'N VEELTALIGE BLOEMLEESING VAN NOORD-KAAPSE VOLKSVERHALE A MULTILINGUAL COLLECTION OF FOLK TALES FROM THE NORTHERN CAPE



This collection and DVD can be used separately or together with *Stories op die Wind*, the folk-tale guide for educators. The use of these tales in different contexts is encouraged, as it gives recognition to the indigenous knowledge and wisdom of the San and Nama communities of the Northern Cape. Through exposure to a broader audience, the publication creates a platform for the voices that have been marginalised by colonialism and apartheid. The stories are in Afrikaans and a number of them have been translated into English and Khoekhoegowab (Nama).

STORIES OP DIE WIND: 'N HANDLEIDING VIR OPVOEDERS VAN NOORD-KAAPSE VOLKSVERHALE A TEXTBOOK FOR EDUCATORS ON NORTHERN CAPE FOLK TALES



Written in Afrikaans, this publication serves as a guide for educators who want to use the folk tales of *Stories op die Wind* in different educational contexts. The use of these tales in different contexts is encouraged, as it gives recognition to the indigenous knowledge and wisdom of the San and Nama communities of the Northern Cape. Through exposure to a broader audience, the publication creates a platform for the voices that have been marginalised by colonialism and apartheid.

SA RECONCILIATION BAROMETER SURVEY 2007

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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