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A PAN-AFRICAN QUARTERLY FOR THOUGHT LEADERS



Xing and Marwala on IMPLICATIONS OF THE FOURTH INDUSTRIAL AGE FOR HIGHER EDUCATION

FAGIOLO ON THE INTERNATIONAL CRIMINAL COURT: A “BIG FISH JUSTICE?”

SOUTH AFRICA R29.90



Liu Yandong Mongane Wally Serote Zamani Saul Radhi S Bachir Atabongwong Gallous
Ebrahim Deen Gwinyai Tarvinga Gaopalelwe Lesley Mathiba Mphutlane Wa Bofelo
Lindo Mlaba Lara Hierro Letlhogonolo Nomadolo Mohau Bosiu Alinah Kelo Segobye
Zama Madinana Thembile Ndabeni Seitebaleng Dikole

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In This Issue

- 2 Letter from the Editor
- 8 Contributors to this Edition
- 10 Implications of the Fourth Industrial Age for Higher Education
Bo Xing and Tshilidzi Marwala
- 16 The International Criminal Court: A “Big Fish Justice?”
Nicoletta Fagiolo
- 28 Build a Rainbow Bridge of People-to-People Exchange and Create a
China-South Africa Community of Shared Future
Liu Yandong
- 33 Chief Luthuli: A man who understood intellectual and spiritual strength
Mongane Wally Serote
- 38 Leadership, introspection, renewal and the cracked mirror
Zamani Saul
- 44 Africa and the Euphoria of Decolonisation: Morocco’s continual illegal
occupation of Western Sahara – The Great Stalemate
Radhi S Bachir and Atabongwoung Gallous
- 48 Statehood in the era of securitisation: Morocco’s accession to the African
Union and its impact on Saharawi self-determination
Ebrahim Deen & Gwinyai Taruvinga
- 53 The Deconstruction of the SASSA Debacle and Aftermaths of Non-
Compliance of the Constitutional Duties by the Minister of Social
Development
Gaopalelwe Lesley Mathiba
- 56 Fallism and the dialectics of spontaneity and organisation: Destructing
Tradition to Reconstruct Tradition
Mphutlane wa Bofelo
- 66 South Africa and the IORA: Feeling good without a good strategy?
Lindo Mlaba
- 69 EU-SA Strategic Partnership 10 Years On
Lara Hierro
- 72 Gender-Based Discrimination in the Workplace in South Africa
Letlhogonolo Nomadolo
- 78 Mainstream economics is wrong; beyond the numbers
Mohau Bosiu
- 79 Through a Creative Lens
Poetry by Alinah Kelo Segobye and Zama Madinana
- 82 A Glorious Day for Africa
Thembile Ndabeni
- 84 Shaping the future of South Africa's economic growth through science,
technology and innovation
Department of Science and Technology
- 86 The Consultative Conference is a Strategic Pillar to Revitalise the National
Democratic Revolution
Seitebaleng Dikole



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Free Marwan Barghouti and all Palestinian political prisoners

On 17 April, 2017, approximately 1,500 Palestinian political prisoners languishing in the dungeons of Israeli prisons embarked on a hunger strike that lasted 40 days.

The leader of the strike was Marwan Barghouti, a Palestinian leader and indomitable freedom fighter. In recognition of the bravery, courage and fortitude of the Palestinian political prisoners and in support of the international campaign to free Barghouti and all Palestinian political prisoners we publish a letter by Marwan Barghouti to fellow parliamentarians:

Dear Fellow Parliamentarians,

If you are receiving this letter, it means that Israel has chosen to continue down the path of prohibited collective punishment and incitement against Palestinian prisoners rather than meeting their legitimate demands. It means that I was placed yet again in solitary confinement along with fellow hunger strikers. But we will not be silenced or surrender.

Hunger strike is a legitimate and peaceful means to protest the violations of our basic human rights as prisoners, as guaranteed under international law. Palestinian prisoners may be at the mercy of the occupying Power, and that is why they are protected under international humanitarian law; but they are not powerless. We resorted to this hunger strike after months of efforts to have our legitimate demands addressed. These demands concern the mass arbitrary arrest of Palestinians, torture and ill treatment, punitive measures against prisoners, deliberate medical neglect, denial of family visits and contacts with our loved ones and education. These are human rights in their most basic form.

Dear Colleagues, dear Friends,
I salute your solidarity with your

imprisoned Palestinian colleagues and the strong support of parliaments around the world for the rights of the Palestinian people, including their right to self determination, and for the end of the occupation and the achievement of just and lasting peace based on international law.

I was the first parliamentarian to be arrested in 2002. Since then, Israel has arrested 70 parliamentarians, more than half of the Palestinian Legislative Council. 13 remain imprisoned today. This is an insult to parliamentarians everywhere, to democracy everywhere, to human rights everywhere. This is an insult to freedom and justice, and it must be answered.

“These demands concern the mass arbitrary arrest of Palestinians, torture and ill treatment, punitive measures against prisoners, deliberate medical neglect, denial of family visits and contacts with our loved ones and education. These are human rights in their most basic form.”

The fate of Palestinian parliamentarians is a reflection of the fate of the people they represent. Over 50 years, Israel, the occupying Power, has arrested hundreds of thousands of Palestinians, the equivalent of 40% of the male population in the Occupied



Palestinian Territory. 6,500 languish in Israeli jails today. For Israel, we are all guilty and our unspoken charges are that we desire freedom, are hungry for freedom, strive and sacrifice for freedom.

Israeli laws authorize colonialism, collective punishment, discrimination and Apartheid. Shouldn't those who vote in favor of such laws be held accountable? Some Israeli parliamentarians have advocated our arrest. They are sitting among you, while we are unable to.

As for the Israeli courts, they are part and parcel of this colonial and military occupation which aims at annexing our land and further displacing and replacing our people. Israeli military courts have a conviction rate for Palestinians that has ranged in recent years between 90 and 99 percent; while Israelis committing crimes against Palestinians enjoy near absolute impunity. I say it yet again: this is a judicial apartheid whereby Palestinian existence and resistance is criminalized.

I was convicted by one of these illegitimate courts. I refused to recognize the court, even more so as an elected representative of the occupied people. I was sentenced to 5 life sentences and 40 years by the occupying Power's courts for terrorism in what was denounced unanimously by international observers as a political show trial. Not a single country on earth accepted this verdict.

This has been the fate of the leaders of liberation movements around the world and across history. The Rivonia Trial, which condemned Mandela to a life sentence, did not delegitimize him or his struggle; it only further delegitimized the Apartheid regime prosecuting him.

This is why the companion of Nelson Mandela and anti-Apartheid icon Ahmed Kathrada launched the “Free Marwan Barghouthi and all Palestinian Prisoners International Campaign”, as he had launched the Free Mandela Campaign before spending 26 years in Apartheid jails himself. This is why he launched it from the cell of Nelson Mandela on Robben Island. This is why 8 Nobel Peace Prize laureates, 120 Governments and hundreds of parliamentarians, leaders, academics, artists, intellectuals, and civil society organizations have joined the campaign. This is why two Nobel Peace Prize Laureates and parliaments and parliamentarians have nominated me for the Nobel Peace Prize as an expression of support to the Palestinian people’s struggle for freedom.

Palestinian prisoners have always suffered from injustice and violations of their rights. But in recent years, Israeli occupation authorities have even deprived us of rights acquired through prior hunger strikes. The escalation in punitive and inhumane measures against prisoners and their loved ones could not remain unanswered. We decided to go on hunger strike because we were left with no other choice. Palestinians suffer and sacrifice to be able to enjoy the rights they are entitled to and yet deprived of. Palestinian prisoners are no exception.

We named this hunger strike “Freedom & Dignity”. These are words that resonate deeply in the hearts of our nation, which has been struggling for 70 years for their realization. But they are also words that resonate around the world, as part of universal history, and the struggle against all forms of oppression and servitude. They are values that are at the core of humanity and that are indispensable to the achievement of peace. There is no peace possible between the oppressor and the oppressed, as oppression and peace are mutually exclusive. There is no peace possible between the prisoner

and the jailer. Freedom is the way to peace.

I call on you to speak up for those that Israel is trying to silence. I call on you to stand up for those thrown into dark cells to be forgotten. I call on you to support the legitimate demands of the Palestinian prisoners’ movement and to uphold international law. I call on you to support the freedom and dignity of the Palestinian people, so peace can prevail.

Some may believe that this is the end of the story, and that I will perish here in solitary confinement. But I know, even in this forced solitude, that we are not alone. I know that millions of Palestinians and many more around the world stand with us. We shall meet soon, in freedom.

I should also like to draw your attention to the following important statement by CAF:

Statement by Concerned Africans Forum on Xenophobic Violence in South Africa

The Concerned Africans Forum joins a number of organisations and individuals who have spoken out against the recent violent attacks and

“ I call on you to speak up for those that Israel is trying to silence. I call on you to stand up for those thrown into dark cells to be forgotten.”

provocative actions of some criminal and business elements against African and Asian foreign nationals in SA. These racist and xenophobic actions are part of a deeper underlying pathology and the systemic and structural problems that form part of South African society.

Criminal and business interests are exploiting the presence of large numbers of documented and undocumented migrants in SA and research indicates that between 2 and 3 million documented and undocumented migrants live in SA. Many of these are refugees fleeing from violence and instability

while others have migrated in search of opportunities and a better life, so called economic refugees. Many have lived in SA for years and are naturalised citizens.

Today we continue to struggle to achieve the vision of a non-racial, united, democratic South Africa and for national cohesion and a “better life for all South Africans”. Violent attacks against foreigners, for whatever reason, will not help to solve the deep political, economic, social, and cultural crises in SA.

We are reminded of the words of ANC President OR Tambo speaking at the first MPLA Congress, in Luanda, Angola in 1977 when he said, “We seek to live in peace and friendship with our neighbours and the peoples of the world in conditions of equality, mutual respect and equal advantage.” Forty years later these words are as apt as ever.

The recent unrest and violence in the country’s urban areas and townships emphasises, once again, the breakdown in the rule of law. As has often been the case in post-apartheid South Africa, protests and community anger have been mobilised against the outsider, migrants from other countries in Africa and Asia who become the targets of the wrath, frustration and violence. We note that some systemic challenges remain; these are that:

- South Africa, under the ANC led government has adopted policies towards the continent informed by a pan-Africanist outlook. This has included its immigration policy, which has been informed by the belief that Africans should be able to move freely across the continent and settle where they are able to.
- Those immigrants, throughout history, have in large measure played a positive role in the development of their adopted countries; and no nation can develop without developing progressive immigration policies.
- However, the South African government’s progressive immigration policies have had unintended negative consequences, due in a large part to the lack of appropriate regulation and administrative mechanisms to



attend to the challenges that comes with immigration.

- One of the consequences of this has been increased pressures on the inadequate resources in poor communities in which most migrants normally settle, therefore widening the alienation of the leadership/government from its people, who have to compete with migrants who are highly skilled and resourceful than them. This therefore breeds conflict and puts pressure on state resources, among which is the police service.

While some officials oscillate between stoking xenophobic sentiments and denialism, the response from authorities, to date, has often been reactive rather than preventive.

These racist and xenophobic attitudes and the violence, looting, assaults and displacement that it fuels are also revealing of the ineffectiveness of the police services.

During the attacks on 11 February in Rosettenville, south of Johannesburg, where residents blamed Nigerians for criminal activity in the area (including running brothels and drug dens) and set fire to 12 homes, residents claimed police were complicit in the crimes, took bribes and were among sex

workers' clients.

Increasingly, the response of police to their evident inability to combat high levels of crime has been to blame foreign nationals for crime and to target them for arrest and deportation. After the crime statistics for 2015 were released, both the Minister of Police and the National Police Commissioner blamed South Africa's rising crime on foreign nationals in statements to parliament. These claims were never substantiated.

Statements from some public officials bolster the attitude of the police towards migrants as we have witnessed in Senegal in 1997 towards Nigerians there.

During his first 100 days in office statement in December 2016, Johannesburg Mayor Mashaba said in relation to crime and migration, "They're holding our country to ransom and I'm going to be the last South African to allow it. I've got constraints as local government, because the national government has opened our borders to criminality." He said he will target those living in the city illegally and involved in criminal activity. Making the causal link between crime and illegal immigrants is a very dangerous slippery slope from whence we will not be able to come back.

CAF welcomes the statements condemning the violence from the South African government including President Zuma, the Ministers of Police and Home Affairs and all parties in Parliament. The outcome of the meeting between International Relations and Cooperation Minister Maite Nkoana-Mashabane, and Geoffrey Onyeama the Nigerian Foreign Minister is also welcomed. But these efforts alone are not enough.

An integrated response to xenophobia will require the involvement of all sectors working at every level. What is totally unacceptable is that international travellers should be subjected to maltreatment and extortion by corrupt or unprofessional officials at our border posts.

The CAF calls on all levels of political, community and business leaders to act decisively and immediately to denounce xenophobia, racism and attacks against foreign nationals in South Africa, to strengthen the credibility and resources of the police to maintain law and order and to root out corrupt practices within the police. The establishment by President Zuma of an International Ministerial Committee on Migration is welcomed in this regard.

We urge the Department of Home Affairs to ensure that the forthcoming White Paper on Immigration recognizes the developmental potential of international migration and is informed by aspirations of regional integration rather than securitization. We similarly ask the Minister of Home Affairs to ensure that the Refugees Act continues to protect the rights of asylum seekers, refugees and migrants to trade, study and move freely. Finally, we urge Metropolitans, Local Government and Ward Councilors to ensure transparent and effective governance that works closely with local residents and migrants to strengthen resilience against xenophobic sentiment and protect communities against violence and manipulation.

We as a collective will further engage with all relevant formations to stem the scourge of this unacceptable phenomenon directed at our fellow Africans. Down with Xenophobia, we say. ■



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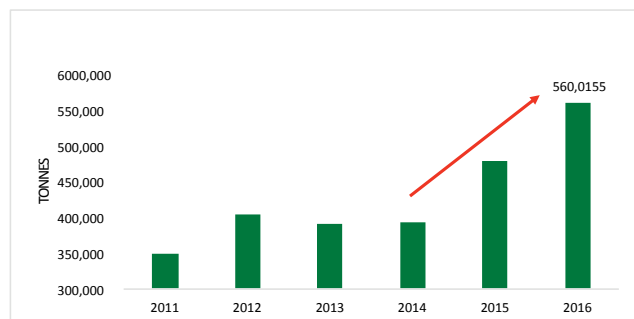
FOOD IS A FUNDAMENTAL HUMAN RIGHT

Access to food is a fundamental human right, and yet according to the United Nations, one in nine people around the world go hungry every day.

In South Africa, many of our children are as a result vulnerable to nutritional problems, growth stunting and illness, while recently the problem of long term food insecurity has been perpetuated by poor weather conditions. For example, the South African Weather Service has noted that 2015 was our country's driest year on record, while 2016 was reported to have one of the lowest rainfalls in the last 30 years. This has meant that many of our domestic food production sectors have been placed under severe pressure.

One of the ways to ensure that food prices are kept under control despite temperamental global conditions is to ensure that we as a country maintain sufficient local production capacity. Many advanced economies have established agencies which seek to aggressively promote agriculture activities and ensure that the local supply of food products is not adversely affected by economic or weather conditions. A few of these have implemented protective schemes under the Common Agricultural Policy in Europe, while the US Department of Agriculture has also pursued similar measures.

TOTAL POULTRY IMPORTS INTO SA



Source: Oasis research, SAPA, April 2017

In South Africa, many of our local food producers are subject to stringent regulations that seek to control each phase of the production process. For example, the local agricultural sector is prevented from using certain insecticides and meat processing plants are subject to stringent health related programmes, while in 2015 the Department of Agriculture imposed a cap of 15% for brine injection within locally produced chicken. Unfortunately, it is not always the case that equivalent standards are maintained in other countries, which has resulted in significant differences in the quality of the final products that are provided to consumers.

While it is not always easy to identify or enforce conditions that relate to the dumping of foreign products on the local economy, a 2017 United Nations Global Food Policy Report noted that South Africa does not have a clear mandate over food security. In this regard, it is vitally important that we develop a coherent and supportive framework for our domestic food supply chain, boosted by both public and private investment. Once this is achieved, South Africa's population will be far better protected from the risks

of food shortages, import reliance, and currency driven food price inflation.

A Word on Financial Matters

During April, the Kingdom of Saudi Arabia (KSA) raised \$9 billion in its first international sale of Islamic bonds (Sukuk), which received a total of \$33 billion in bids from both conventional and Islamic bond investors. The 5 and 10-year issue is the largest in the history of the international Sukuk market, and is set to further develop the industry by providing additional depth and diversification opportunities to Sukuk investors the world over. It will in addition contribute meaningfully to the Kingdom's ambitious economic reform programme, as it seeks to diversify and modernise its economy in order to remain at the forefront of growth and development in the Middle Eastern region and beyond.

As a regular Sukuk investor and participant in the KSA Sukuk auction, Oasis is well positioned to benefit from this issue, which is an important milestone in deepening and broadening the Islamic finance industry and entrenching KSA as a dominant player in this market. A number of Oasis funds provide investors with exposure to Shari'ah income instruments, including the local Oasis Crescent Income Fund, the Oasis Crescent Global Income Fund, the Oasis Crescent Global Short Term Income Fund, as well as a range of Oasis Crescent Balanced funds. The establishment of new Islamic income markets can help to ensure the availability, stability and sustainability of funding through not only good times, but tough times as well. The rise of Sukuk and other short term income instruments has given Islamic investors the opportunity to benefit from a more fully diversified portfolio of assets, including not only equity and property, but Shari'ah compliant income instruments too. This gives wealth managers like Oasis the platform to provide a complete wealth management solution to its clients, allowing for more suitably diversified products that cater to all life stages and risk appetites.

In the News

On behalf of our Directors and Staff,
we wish all Muslims, a joyous

Eid ul Fitr

The Holy Prophet Muhammad (May the Peace and Blessings of the Almighty be Upon Him) said, regarding Eid : "For every people there is a celebration and this is our celebration."

Sahih Al-Bukhari: (vol. 5, no. 268)

May the Almighty accept our fasting, prayers and good deeds and may we spend this Blessed day of Eid with our families and loved ones.



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Park, a national heritage site. His written works include several acclaimed novels, volumes of poetry and a collection of essays. In August 2012, he was awarded the prestigious Golden Wreath Award.

Zamani Saul is currently the Chair of the ANC in the Northern Cape. Saul holds a Master's degree in Development Studies from the University of the Free State and is now working towards a PhD in Development Studies at the same university with the title Development Planning in South Africa: Exploring the Role of the National Planning Commission in South Africa to Build an Effective Planning Regime. This comparative study draws from varied experiences of six emerging economies that have established planning bodies, namely China, India, Malaysia, South Korea, Nigeria and Namibia.

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Liu Yandong Liu has been the vice-premier of China's State Council, since the 12th National People's Congress (NPC) in Beijing, March 16, 2013. Liu Yandong, born in 1945, is also a member of the Political Bureau of the CPC Central Committee and a member of the Leading Party Members' Group of the State Council. Liu entered the workforce in March 1970 and joined the CPC in July 1964. She studied political theory at the School of Administration at Jilin University, and holds the degree of Doctor of Laws. ■

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RETHINK. REINVENT.



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in publishing *The Thinker*

Implications of the Fourth Industrial Age for Higher Education



A new form of a university is emerging that does teaching, research and service in a different manner. This university is interdisciplinary, has virtual classrooms and laboratories, virtual libraries and virtual teachers.

By Bo Xing and Tshilidzi Marwala

Higher education in the fourth industrial revolution (HE 4.0) is a complex, dialectical and exciting opportunity which can potentially transform society for the better. The fourth industrial revolution is powered by artificial intelligence and it will transform the needs of the workplace from task-based characteristics to human-centred characteristics. Because of the convergence of man/woman and machine, it will reduce the subject distance between humanities and social sciences as well as science and technology. This will necessarily

require much more interdisciplinary teaching, research and innovation. This paper explores the impact of HE 4.0 on the mission of a university – which is teaching, research (including innovation) and service.

Let us examine the status quo in our society

Today, all graduates face a world transformed by technology, in which the Internet, cloud computing, and social media create different opportunities and challenges for formal education systems. As students consider life after graduation,

universities are facing questions about their own destiny especially employment. These technologies powered by artificial intelligence are so much transforming the world that social concepts such as “post-work” are more and more defining the present period. This period requires certain skills that are not exactly the same as the skills that were required in the third industrial revolution where information technology was the key driver. These skills are critical thinking, people management, emotional intelligence, judgement, negotiation, cognitive flexibility, as well as knowledge

production and management. Our starting point is to investigate the three current megatrends as well as their consequences.

We argue that one insightful lens of today's life is based on intelligent technology that is powered by artificial intelligence. Fast changes in physical (e.g., intelligent robots, autonomous drones, driverless cars, 3D printing, and smart sensors), digital (e.g., the internet of things, services, data and even people) and biological (e.g., synthetic biology, individual genetic make-up, and bio-printing) technologies, and generally in the way we work, we learn, and we live, make it a crucial force for economic competitiveness and social development.

The Fourth Industrial Revolution

With the waves of above mentioned breakthroughs in various domains, we gradually find ourselves in the midst of the fourth industrial revolution which is driven by artificial intelligence (AI) and cyber-physical systems (CPS) (Marwala, 2007). The first industrial revolution was catalysed by Newton when he formulated his laws of motion. Because from then onwards motion was better understood and quantified, it was possible to design steam engines that mechanised much of the work that was traditionally done by humans. The second industrial revolution was catalysed by Faraday and Maxwell who unified magnetic and electric forces and this led to electricity generation and the electric motor which were instrumental in the assembly lines that have come to dominate many industries. The third industrial revolution was catalysed by the discovery of a transistor which ushered in the electronic age that gave us computers and internet. The fourth industrial revolution will revolutionise industries so substantially that much of the work that exists today will not exist in 50 years (Marwala et al., 2006). The next subsections describe hallmarks that characterise the fourth industrial revolution.

Digitisation and Integration of Vertical and Horizontal Value Chains

The 4th industrial revolution digitises and vertically integrates processes across the entire organisation. It

also integrates horizontally all the internal processes from suppliers to customers. Put simply, it epitomises a paradigm shift from 'centralised' to 'decentralised' production, whereby machines no longer simply 'process' the product, but they are seamlessly integrated into the information network, the business partners and customers. In other words, the idea of consistent digitisation and linking of all productive units in an economy is emphasised in the 4th industrial revolution age.

Digitisation of Product and Service Offerings

Digitisation of products comprises the extension of current products, and the manufacturing of new digitised products. So far, the major gains for industrial companies have

“These skills are critical thinking, people management, emotional intelligence, judgement, negotiation, cognitive flexibility, as well as knowledge production and management.”

often been on improving the degree of automation, but in the fourth industrial age this automation will be more intelligent and self-adaptive as more advances are made in artificial intelligence. The factory floor is moving towards self-regulating production that can be adapted to individual customer demands and has self-learning capability.

Digital Business Models and Customer Access

Prominent industrial companies already provide disruptive digital solutions for the purpose of expanding their offerings. In the 4th industrial revolution era, it is possible to flexibly combine different business models with customer access (e.g., production on demand; production on site; and consumer engineering) and thereby

creating new kinds of production methods. Disruptive digital business models will focus on generating extra digital revenues and optimising customer experience in terms of interaction and access.

Higher Education and the Fourth Industrial Revolution (HE 4.0)

The connection between education and society is often implied to be one-way, where education is expected to fit in with economic and political trends, rather than opposing them and representing something different. Such general understanding of the relationship between education and the socio-economic structures and what the education position involves help us to form a projection of future higher education associated with the fourth industrial revolution.

As we can observe, the development of the higher education system has gone through the following stages, namely: elite, mass, and post-massification.

Higher Education for the Elite

Higher education has profound origins starting in the 6th century monastic schools and later evolving into the medieval European University beginning in Bologna in 1088 which focused on theology and philosophy, and progressing into the current modern higher education system. In this evolution universities evolved from just being centres of teaching and learning, to include research and thereafter to include service to society. In its early stage, university education catered for tiny elites. At that time, higher education was intended to mould the minds and characters of the ruling class.

Massification of Higher Education

In the late 20th century, the tension between education as a private right or a public good prompted the trend to 'massification', i.e. to provide higher education to many people. During this period, higher education spawned changes in a massive way in terms of many factors such as the size and shape of systems, the curriculum designs, the organisational structures, the pedagogy methodologies, the delivery modes, the research patterns, and the relationship

between institutions and other external communities. The main goal of mass higher education was targeting transfer of skills and preparation for a wide variety of technical and economic roles.

Post-Massification

Higher education has gradually progressed from the elite phase to mass higher education and then to post-massification stages. Many advanced and some developing economies enjoy tertiary participation rates of over 50%. Another characteristic of this trend is internationalisation of both students and staff. According to a report from the OECD, with demographic changes, international student mobility is expected to reach 8 million students per year by 2025. South Africa is presently hosting many sub-Saharan students, with many others studying in European and American countries. Currently, adapting population to rapid social and technological change remains the main goal of many countries.

Fundamental Functions of a Higher Education Institution

The core mission of higher education remains the same whatever the era. The goal of higher education is to ensure quality of learning via teaching, to enable the students to get the latest knowledge through exploratory research, and to sustain the development of societies by means of service.

Teaching

One of the principal tasks of every university is to educate the youth. Therefore, it is necessary to implement appropriate teaching strategies and to organise work in a way that fosters learning. This has implications on adaptable learning programmes, better learning experience, and lifelong learning attitude.

Research

The journey towards global competition in the higher education requires institutions to put a huge amount of effort into research and development (R&D). Experts believe these forces range from new technology

deployment to global cooperation and collaboration.

Service

To sustain the competitive position among world higher education system, we need to radically improve educational services. In particular, we need to drive much greater innovation and competition into education.

Let us examine some of the solutions which can result from adapting Higher Education to the Fourth Industrial Age.

With its speed and breadth, the questions raised by the aforementioned megatrends and the subsequent fourth industrial revolution for higher education need to be considered carefully. It is important for nations to understand the impact of these changes to all areas of our lives, including higher education.

“The factory floor is moving towards self-regulating production that can be adapted to individual customer demands and has self-learning capability.”

Teaching in the Fourth Industrial Revolution (Teaching 4.0)

Embrace Wearables-Assisted Teaching, Learning, and Training

The plurality of wearable devices produced indicates an early sign of another technology. Education establishments have to act now to realise wearables' huge potential to revolutionise the way we teach and train students and how they learn as well. Take numerical simulation, it is a very useful tool for engineers to analyse and predict the condition of real-world physical systems. In the era of the 4th industrial revolution, when the existence of cyber-physical systems become a new norm, numerical simulations play an ever-increasing important role in both education and practical applications. Within the realm of numerical simulation, finite element

analysis (FEA) is a versatile technique which has been practiced in various engineering fields such as analysing buildings (Marwala et al., 2017; Marwala, 2012; Marwala, 2010). Modern FEA is often accomplished with the assistance of computers. As a result, students can understand key concepts more intuitively, and engineers can conduct complex modelling and interpret results easily. Nevertheless, such setup has limited the FEA processes in an entirely virtual and offline environment. These limitations in turn deprive the human perception of many physical characteristics (e.g., scale, context, spatial qualities, and materials). With the advancement of some wearable technologies, say augmented reality (AR), a user's sense and interaction with the physical world can be enhanced thereby creating a virtual laboratory. AR can supplement reality via superimposing computer-generated information over the physical context in real time which can facilitate results exploration and interpretation.

Embrace massive open online courses (MOOCs)

Teaching has long been constrained by the following scenario: students needed to gather in a lecture hall to hear the professor or sit around a table to discuss with peer fellows. Technology innovation is relaxing those constraints, however, and bringing radical change to higher education. Massive open online courses, or MOOCs, is a form of education that provides stand-alone instruction online (Xing, 2015). Though much experimentation lies ahead, MOOCs will impact on different universities in distinct ways. Two big factors underpin a university's costs: physical proximity requirement and productivity limitation. Because of the need for physical proximity enrolling more students is expensive considering the increase in buildings and instructors. Because of productivity limitation, the maximum number of students that can be compressed into lecture venues and exam-marking rosters is limited. MOOCs can eliminate these obstacles by working completely differently: off campus and online model; and once an online course is created,

teaching extra students becomes an advantage.

Cultivate Innovative Talent

Most developing or under-developed countries lack innovative talent, especially at the high end. To fully grasp the opportunity of another wave of industrialisation, a country's higher education system should not only focus on training knowledge-based skilled persons, but have a good look at cultivating innovative talent, especially high-level scientists and technologists. These scientists must be trained in an inter-disciplinary environment where technologists should understand humanities and social science and vice versa.

Generalise Blended Learning

Microeconomics is an important subject in higher education which has both social and practical value. But most of its concepts exhibit a high level of abstraction which often imposes great difficulties for students to learn it. In many situations, the concepts are isolated, without comprehensively understanding the correlations of each piece of knowledge point on the whole picture. The aftermath of this learning process is that only parts are recognisable by students, while the comprehension of the overall working mechanism is paralysed.

In this regard, the main objective for a lecturer is to let students acquire the conceptual knowledge (i.e., essential relationship between knowledge fragments and their functions in the whole knowledge system) which is applied to not only microeconomics but many other subjects as well. To address this issue, we believe a generalised blended learning (i.e., mixed e-learning and face-to-face learning methodology) may contribute to this. It is well-known that virtual environments offer great educational value in the process of information transmission and interactive participation, either in real time (e.g., video conferences), or non-simultaneous participants involvement (e.g., forums and chats).

In such process, the face-to-face teaching and evaluation can be used to develop analytical expressions and problem solving capabilities related to

mathematical matters. Lecturers at this stage can get physical feedback about the effectiveness of their knowledge transmission to students. Then the understanding of some specific conceptual issues are further assessed and reinforced via online graphic representations and multiple choice test questions and this offers students an advantage of reviewing their results immediately.

In embracing rather than fighting against these new technologies and the associated novel teaching patterns, higher education systems need to look at how they can accept them and

“The strongest innovators and leading researchers draw on swiftness, well-pruned processes, and the exploitation of advanced technology to explore and capture research opportunities.”

transform the teaching and learning environment to the benefit of both students and academics.

Research in the Fourth Industrial Revolution (Research 4.0)

Open Innovation

Open innovation refers to the combination of humans and computers to form distributed systems for the purpose of accomplishing innovative tasks that neither could do alone. Despite the debate about accuracy, information science has begun to build on some early successes (say, Wikipedia) to demonstrate the potential of evolving open innovation that can model and resolve wicked problems at the junction of economic, environmental, and socio-political systems. A typical open innovation process includes:

Micro-tasking under a crowdsourcing mechanism where the respective strengths of a crowd and machines can be magnified.

Designated workflows guide crowd-workers to use and augment the information offered by workers at the previous step.

To create problem-solving ecosystems, the researcher can then combine the cognitive processing of many ordinary contributors with machine-based computing to establish faithful models of the complicated, interdependent systems that underlie the world's most demanding tasks.

Evolutionary and Revolutionary Innovations

In the fourth industrial age, a country's higher education system should put innovation, both evolutionary and revolutionary, high on its agenda. In general, innovations based on existing technologies are so-called evolutionary type; while revolutionary type of innovations focuses are inventions of new technologies. Ideally, hybrid innovation is a sound strategy but it is difficult to implement. Established academics are often victims of their own accomplishments. Leading scholars have long succeeded by exploring new research domains that could lead to incremental research output growth. Emerging researchers have aggressively followed a similar strategy. As one research area matures and competition increases severely, the degree of research outputs being published in the form of patents or journals inevitably gets very low. Introducing new research directions means going up against entrenched competition (Xing and Gao, 2014).

In the era of the 4th industrial revolution, higher education needs to deepen its technology system reforms by breaking down all barriers to innovation. One noteworthy obstacle is resource allocation for funding different research projects. For those technology innovations that are important for industrialisation, re-industrialisation, and neo-industrialisation, but are unable to profit in the marketplace in the near-term, financial support from institution and government levels should be made available. However, for applied technologies where commercialisation is possible, social capital can play an active role (Xing, 2017). Additionally, several other

hindrances should also be dealt with properly:

First, with its hybrid innovation strategy, higher education practitioners need to have a global perspective. The trend of world technology development should be well-perceived and thus appropriate plans need to be made. Each stream of innovation resources, internally, locally, regionally, and globally, should be utilised properly.

Second, by having various development strategies and incentive policies across different departments, the connectivity among them should be optimised to avoid potential overlapping.

Third, the speed of technology transfer needs to be raised to boost economic and social development.

New Technological Advancement driven Research and Development

New technological advancements are often ranked as the most important driving force for R&D. Technology-driven R&D comes in many forms and it can mean employing mobile capabilities to improve data acquisition accuracy; using advanced big-data analytics to spot hidden statistical patterns; harnessing artificial intelligence techniques to retool information search, collection, organisation, and knowledge discovery, to name just a few. The bottom line, in all cases, is that the advanced technologies can be leveraged across many domains to continue to deliver impact.

Briefly, advanced technologies can bring benefits to higher education R&D in at least four areas: cost and timeline reduction; operation transformation; R&D process enhancement; and, most significant, research direction innovation via the creation of new ideas and theories.

Take the example of additive manufacturing (or 3D printing). This new technology can be used to reduce the cost of producing prototypes, which are generally time consuming and cost inefficient in conventional higher education R&D. This innovation results in both significant efficiencies and more flexible experimental plans which, in turn, lead to uses of the technology where cost had previously been prohibitive in the laboratory environment. In the fourth industrial

age, R&D processes with the help of advanced technologies treat functions such as IT and analytics as 'centres of value' rather than of service or cost; nurture partnership attitude; and, more and more frequently, form an agile style of R&D. One of the most important and difficult tasks is to shift higher education R&D culture from an outdated 'waterfall approach' to idea development. Higher education institutions that make this change will become good at absorbing ideas from all kinds of sources.

Shorten Innovation Cycles

Speed enables higher education institutions to be aware of research trends as they emerge and catch up with competition. In comparison to commercial R&D centres, higher education institutions' overly-long development times are the most-blamed obstacle to generating positive returns on innovation. In practice, fast movers are much more likely to also be strong innovators as they are also more disruptive. Brainstorming, conceptualisation, model design, theoretical proving, experiment setting-up, components procurement, prototyping, test conducting, results analysis, and deliverables submission can be organised into teams that work closely with group leaders to quicken responsiveness to emerging research trends.

In closing, as we have indicated herein, the strongest innovators and leading researchers draw on swiftness, well-pruned processes, and the exploitation of advanced technology to explore and capture research opportunities. Any higher education institution thinking about research in the fourth industrial revolution should first determine where its gaps are vis-à-vis the areas mentioned above and make a plan to address those issues. Once the internal house is in an opposite situation, they can begin to scout around for attractive odds for incremental research capacity growth.

Service in the Fourth Industrial Revolution (Service 4.0)

University-as-a-Platform (UaaP)

We are all aware of the downfall of Blackberry. The Red Queen effect,

the requirement of running faster just to remain in the same place, is one of the most commonly cited causes. In such a scenario, one rival that successfully adopts a platform-oriented methodology can compress an entire sector's innovation life cycle. The outcome of the Red Queen effect is that it becomes harder for a competitor to get ahead of the dominant player. In systems thinking, this phenomenon is often referred to as escalation. Nowadays, platform concepts are creating an entirely new competition landscape, one that puts ecosystems in face-to-face wrestling. In Service 4.0, the ongoing transformation to platform-based competition is led by many forces: educational activities; ubiquitous computing and Internet of things both within and outside campus and the demanding students in terms of customised learning. That which served institutions well in scientific disciplines and speciality based markets can become their impediments in platform-based environments.

Managing platform-based higher education businesses requires a completely different mind-set for strategy. In non-education sectors, the likes of Alibaba, eBay, Facebook, WeChat, Google, Baidu and Amazon are actively building their empires around the idea of platform thinking. While platform thinking is not new, what is new is that platform-centric styles are turning into the engines of innovation that are spreading into a wide variety of unanticipated sectors such as automobiles, manufacturing, fashion, healthcare, publishing, and many others. In principle, the platform-based business models emphasise a more biologically inspired thinking style rather than a mere organising logic. In a broader view and analogic metaphor manner, higher education institutions need to reconceive their business ecosystems, re-identify their competitive edges, reshuffle their customer pools, reshape themselves as orchestrators, and rebuild service architecture. University-as-a-Platform (UaaP) gives the current higher education system an opportunity to steer their bread-and-butter businesses towards platform businesses for a better service performance. Key drivers

for a successful UaaS include:

- deliver inter-, multi-, and across-disciplinary degrees;
- an appropriate blend of service models (e.g., blended learning, MOOCs, etc.);
- the emergence of Internet of everything;
- the integration of routine education activities into software across a plethora of institution systems;
- up-to-date digital infrastructure; and
- enhanced connectivity among all parties residing in the higher education value chain.

Education-as-a-Service (EaaS)

Typically, in the age of the 4th industrial revolution, once every couple of decades, a disruptive new technology arises that essentially changes the blueprint of many sectors. In terms of higher education, the massive proliferation of affordable mobile devices, Internet broadband connectivity and rich education content start a trend of transforming how education is delivered. Cloud computing, amongst other techniques, creates a new way of educating people that might eventually disrupt the existing higher education systems. With the support of education cloud, government decision makers and business practitioners can answer some key strategic questions comprehensively: deliver education in the quickest, most efficient and affordable form; develop 21st century students' skills and prepare students for the new job market in the most appropriate way; encourage native innovation with the strongest incentives; and share resources across institutions, districts, regions, or the entire country in the smoothest fashion.

When universities think of embracing EaaS, they often imagine profound advertising campaigns, big promotion budgets, and huge amount of infrastructure investment. Fortunately, EaaS has a healthier respect for the students than academicians have for disruptive ways of delivering education service. At the heart of EaaS is the belief that students' needs should be met effectively. Therefore, when a higher education institution sets out to attract

a potential student as a customer, it needs to create an all-round education experience that is genuinely capable of satisfying the customer's needs, although, this process is not as simple as it may seem. EaaS is not the creation of pseudo differences via a change in logo, location, or making vague promises with empty sounding words. Furthermore, higher education institutions are accountable to a host of stakeholders such as governments, accrediting agencies, the public and private funding sources, academics, management, support staff, and students. An EaaS orientation that translates into an effective education scheme will achieve these broader concerns.

Nevertheless, many institutions adopt an EaaS strategy poorly by giving lip service to various stakeholders. Education and technology has advanced over the past few decades. Many technology-assisted / enhanced educational practices are no longer as simplistic. In Service 4.0, EaaS as a guideline has to discover newer and more advanced strategies to cope with ever-increasing societal complexity.

Internationally-linked Programmes

With the fast pace of the 4th industrial revolution, forging various kinds of institutional linkages, both domestically and internationally, to offer more versatile degree programmes and professional qualifications becomes a must. Among these schemes, the following types stand out and are worth consideration: First, twinning programmes where a local education provider collaborates with a foreign education provider to develop a connected system allowing course credits to be taken in different locations. On completion of the twinning programme, the foreign education provider awards a qualification. Second, franchise programmes are part of a scenario where a foreign education provider authorises a local education provider to deliver their courses / programmes, and the qualification is awarded by the foreign education provider. Third, double or joint degrees can result from an arrangement where local and foreign education providers cooperate

to offer a programme for a qualification that is awarded jointly or from each of them. Fourth, blended learning where local and foreign education providers deliver programmes to enrol students in various mixed forms, e.g. e-learning, online learning or on-site learning.

We are confident that improving the quality of service in higher education can bring about a significant change in society.

Conclusions

Though the business of higher education remains unchanged since the times of Aristotle, today students still assemble at a scheduled time and venue to listen to the wisdom of scholars. Given the fourth industrial revolution, a new form of a university is emerging that does teaching, research and service in a different manner. This university is interdisciplinary, has virtual classrooms and laboratories, virtual libraries and virtual teachers. It does, however, not degrade educational experience but augments it. ■

Bibliography

- T. Marwala, I. Boulkaibet, and S. Adhikari, (2017) *Probabilistic finite element model updating using Bayesian statistics: applications to aeronautical and mechanical engineering*. The Atrium, Southern Gate, Chichester, West Sussex, PO19 8SQ, United Kingdom: John Wiley & Sons, Ltd.
- T. Marwala, (2012) *Condition monitoring using computational intelligence methods: applications in mechanical and electrical systems*. London: Springer-Verlag.
- T. Marwala, (2010) *Finite-element-model updating using computational intelligence techniques: applications to structural dynamics*. London, UK: Springer-Verlag.
- B. Xing, (2015) "Massive online open course assisted mechatronics learning: a hybrid approach," in *Furthering Higher Education Possibilities through Massive Open Online Courses*, A. Mesquita and P. Peres, Eds., Hershey PA, USA 17033: IGI Global.
- T. Marwala, (2013) *Economic modelling using artificial intelligence methods*. Springer-Verlag London.
- T. Marwala, (2014) *Artificial intelligence techniques for rational decision making*. Springer International Publishing Switzerland.
- T. Marwala, (2015) *Causality, correlation and artificial intelligence for rational decision making*. 5 Toh Tuck Link, Singapore 596224: World Scientific Publishing Co. Pte. Ltd.
- B. Xing and W.-J. Gao, (2014) *Innovative computational intelligence: a rough guide to 134 clever algorithms*. Springer International Publishing Switzerland.
- B. Xing, (2017) "Visible light based throughput downlink connectivity for the cognitive radio networks," in *Spectrum Access and Management for Cognitive Radio Networks*, M. A. Matin, Ed., ed Singapore: Springer Science+Business Media.
- T. Marwala, (2007) *Computational intelligence for modelling complex systems*. Research India Publications, Delhi.
- T. Marwala, U. Mahola, and F.V. Nelwamondo, (2006) "Hidden Markov models and Gaussian mixture models for bearing fault detection using fractals", *Proceedings of the International Joint Conference on Neural Networks*, BC, Canada, pp. 5876-5881.

THE INTERNATIONAL CRIMINAL COURT

A “Big Fish Justice?”



The perceived bias of the International Criminal Court, which has made Africa the focus of its work, is a point to be examined. To date, out of the official 10 ICC investigations, all except one are focused on the African continent.

By Nicoletta Fagiolo

The world's first permanent international criminal court (the ICC), which came into being on 1 July 2002, was dealt a silent but solid slap on 1 February 2017 when the African Union (AU) approved a plan for a mass withdrawal. The decision (albeit non-legally binding) was held behind closed doors as the AU summit in Ethiopia's capital Addis Ababa was nearing its end. Out of the 34 African countries that are signatories to the ICC Treaty, the majority were in favour of withdrawing.

Since its inception, the ICC has been the target of fervent support, as well as harsh criticism, increasingly so. While South Africa's recent withdrawal late last year was a hard blow and an unprecedented challenge to the Court's very legitimacy, the summit decision underlined the need for scrutinising the mechanics, if not the existence, of this court.

This year marks the ICC's 15th anniversary. Its inherent mission is to bring to justice those most responsible within an event or more events – usually a situation that stems from a country at war – of the worst international crimes: war crimes, crimes against humanity and genocide.

At the review conference held in Kampala in June 2010, the member states that had ratified the Rome Statute, the 1998 treaty establishing the ICC, decided by consensus to its amendment, allowing it to exercise jurisdiction over the crime of aggression. This is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State.

Yet it is not clear when the aggression amendments will become operational and the Court may only exercise jurisdiction over aggression committed one year after 30 States Parties have accepted the amendments. The aggression amendments also carry a confusing opt-out clause. “Why would a State ratify the amendment only to opt out of jurisdiction?”, argues Public International Law Oxford University lecturer Dapo Akande¹, a co-director of the Oxford Institute for Ethics.

In November 2016, Russia, a permanent United Nations Security Council (UNSC) member, made a

decision to withdraw its signature from the ICC's founding document, which it had signed, but never ratified. Now within the UNSC Permanent Five structure, only France and England are part of the ICC, while China, the United States and now Russia are not signatories.

This is a strange set up considering that these same five permanent members of the UNSC can, according to the ICC founding treaty, decide to refer a case to the ICC, as well as block it, even concerning countries which are not state parties to the Rome Treaty. This institutional structural and operational link of the ICC to the UNSC has been a major point of contention since its inception and the reason why countries, such as India, decided to opt out.

The perceived bias of the International Criminal Court, which has made Africa the focus of its work, is a point to be examined. To date, out of the official 10 ICC investigations, all except one are focused on the African continent. Thirty-two African nationals from nine African countries have been indicted.

But are these points enough to understand what is at stake? Strangely with all the talk about international criminal justice, little has been said about who exactly is being judged, and most importantly, for which wars.

One way to evaluate international criminal justice is to look at the case law it develops and the juridical codification it establishes.

The characterisation of war

The first three trials held at the ICC concerned crimes committed in Ituri, in the eastern Democratic Republic of Congo in 2002-2003. Three individuals were indicted: Thomas Lubanga, Germain Katanga and Mathieu Ngudjolo.

A fourth person, Rwandan-born Bosco Ntaganda, indicted in 2006 and again in 2012, was transferred to the ICC in 2013 after he voluntarily surrendered himself at the American embassy in Kigali, Rwanda, in March of that same year. Unlike the first three indicted, Ntaganda is a fully-fledged, long-time rebel. More on Ntaganda later.

Germain Katanga and Mathieu Ngudjolo's trials were combined since both indictments covered a single event that occurred on 24 February 2003 in Bogoro, Ituri and both allegedly headed local defence groups largely made up of combatants from the Lendu ethnic group, the Patriotic Resistance Force in Ituri (FRPI) and the Nationalist and Integrationist Front (FNI) respectively. The event allegedly targeted the Union of Congolese Patriots (UPC), a militia largely consisting of ethnic Hema combatants that was led by Thomas Lubanga, as well as the predominantly Hema civilian population living in the village.

In December 2012, the ICC Trial Chamber II acquitted Ngudjolo of all charges. Ngudjolo unequivocally proved at Court that he was assisting

“In customary international law, one has the right to self-defence if the sovereignty of a country is breached. In the case of Katanga, the Court has indicted a village man who carried out military orders given by his own legitimate government.”

the birth of a child at the time in the Kambutso health clinic where he worked as a nurse, and thus could not have been present where the criminal incident for which he was charged took place.

Things went differently for Germain Katanga. Who is Germain Katanga and which war was he fighting?

“Katanga's story is of a Congolese orphan, an occasional okapi hunter who in 2004, when he was just 25 years old, was suddenly called to Kinshasa to be appointed General of the Army of the Democratic Republic of the Congo”, writes Juan Branco. Branco worked under the ICC prosecutor

Luis Moreno-Ocampo and has written about the ICC.² Katanga never served as an actual general in battle.

How can we place the Ituri event in context?

Geographically the Congo is the largest state in Southern and Central Africa covering an area of 2,345,095 km² – two-thirds of the European Union. With 80 million hectares of arable land and over 1,100 minerals and precious metals identified (extensive deposits of copper, cobalt, and coltan, as well as diamonds, gold, silver, tin, iron ore, zinc and oil), the DRC has the potential to become one of the richest countries in the world. Its population is approximately 81 million.

Today, Eastern Congo is the home to what is probably the most deadly war in the world, on-going since 1996. Journalists and academics have placed the death toll at an average of 45,000 deaths per month. Well over 12 million people have died in the war since 1996.

In 2003 the region was emerging from what is known in Congolese history as the African world wars: the first (1996-1997) and second (1998-2003) Congo wars.

The First Congo War was a foreign invasion of Zaire, (today Congo) involving some eight countries led by the United States, a Ugandan and Rwandan-forged rebel group, the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL). The AFDL was backed by the Angolan, Ethiopian, Eritrean, Tanzanian and Zimbabwean governments. These forces attacked the Zairean army and Congolese local self-defence groups.

The AFDL invasion overthrew Congolese President Mobutu Sésé Seko and replaced him with the rebel leader Laurent-Désiré Kabila. When President Kabila took office he asked his former backers to retreat from Congolese territory with their armies. In response, Uganda and Rwanda launched the Congolese Rally for Democracy against Kabila by once again invading eastern Congo in August 1998.

This triggered the Second Congolese War, the deadliest war in modern African history. It involved eight nations, a dozen armed groups and caused the deaths of millions of

people, from violence, and also from the – disease and starvation which resulted from the turmoil of war.

The Ituri district takes its name from the Ituri River, which runs from Lake Albert in the north moving southwest through the region's heart at the Okapi Wildlife Reserve where it joins the Aruwimi River that empties into the great Congo River. Ituri is richly endowed with natural resources, including fertile land, pristine forests, and large gold deposits. Thousands of fishermen work on Lake Albert, where there are also oil reserves. Ituri, whose capital is the town of Bunia, administratively a sub-division of Orientale Province, is itself further subdivided into five territories, each of which has several villages.

From the beginning of the Second Congo War in 1998, Ituri was held by soldiers of the Ugandan national army, the Uganda People's Defence Force (UPDF) and the Ugandan-backed rebel movement Movement for Liberation faction of the Rally for Congolese Democracy (RCD-ML).

In June 1999, the commander of the UPDF forces in the DRC, General James Kazini, ignoring the protests of RCD-ML leaders, literally carved the Ituri area out of the eastern section of the DRC's Northeastern Orientale Province. This act reflected that of the Congo's colonial government, which in 1928 changed the district's boundaries to bring the Kilo and Moto goldmines together, thus creating Kibali-Ituri.

Katanga was born in April 1978 in Mambasa, in the forestlands southwest of the area's capital Bunia. Katanga's maternal uncle, a soldier under Mobutu in the Zairian Armed Forces (FAZ), and his wife cared for him from birth. His uncle was killed in the first Congo war fighting the invading AFDL forces in 1996.

After his uncle's death Katanga set out to look for his biological father and after an 18-month search, eventually found him in October 1998 in the village of Aveba in Irumu, southern Ituri. Irumu is made up of 12 villages. Among these, only one is Ngiti, the community of Walendu-Bindi, which means "community of Southern Lendu". Four other communities in this territory are Hema, while various

groups among the 18 ethnicities of Ituri populate the other communities.

His father was a protestant nurse, from the Ngiti ethnic group, who had 15 children. Germain, then 20 years old, was embraced by his father's extended family and village.

Who was fighting whom in Ituri eastern Congo at the time? A UN experts' panel report from October 2002 on the illegal exploitation of natural resources takes a closer look into it. The report, dated just four months before the event for which Katanga is indicted, reads: "The Uganda People's Defence Force (UPDF) military operations have contributed to the arming of large numbers. The UPDF have trained the militia of their Ituri commercial allies, the Hema, and provoked the need for the victims of

“This is an obvious breach of ‘double jeopardy’ or Article 20 of the Rome Statute: ‘no person shall be tried by another court for a crime if ‘that person has already been convicted or acquitted by the ICC.’”

Hema attacks to defend themselves. Lendu villages have mounted their own local forces, and they in turn have frequently attacked Hema villages. The creation of local self-defence groups is a familiar pattern: local ethnic groups frequently assemble armed groups to defend their villages or collectivities.”³

Another UN report that looks at events from January 2002 to December 2003 maintains: “the Ugandan army, already present in Ituri since late 1998, fuelled the conflict by initially supporting some Hema notables and allegedly bombing hundreds of Lendu villages. Some Lendu traditional authorities created self defence units.”⁴

Military control over highly informal networks, in an area where the state is absent, facilitated Ugandan national

army (UPDF) commanders' access to Congo's natural resources. These military shadow networks were directly linked to the inner circles of the Ugandan regime.

Key figures of the Ugandan regime that played a crucial role in this economic exploitation are James Kazini and Ugandan President Yoweri Museveni's brother General Salim Saleh. These two have been defined by researchers Vlassenroot, Perrot and Cuvelier as symbolic for the rise of a new class of “entrepreneurs of insecurity”.⁵ Museveni's brother General Salim Saleh was also singled out in a 2001 UN panel of experts report on illegal exploitation of Congo's wealth. Uganda in 2001 set up an inquiry commission into Uganda's pillaging in eastern Congo. David Porter, presiding over the commission, recommended that Salim Saleh be tried as well as other generals and officers in the Ugandan army.

As UPDF High Commander in the DRC from 1998 to 2000, James Kazini was the link between the Ugandan national army (UPDF) officers and the Congolese leaders of armed groups. Figures such as Mbusa Nyamwisi and John Tibasiima from the Congolese Rally for Democracy - Movement for Liberation (RCD-ML), Roger Lumbala from the Congolese Rally for Democracy (RCD-National) and Jean-Pierre Bemba's Movement for the Liberation of the Congo (MLC)⁶, were all under his command and facilitated his illegal diamond, coltan, timber, counterfeit currency, gold and coffee dealings.

Between June 1999 and April 2000, 26 attacks were carried out by Hema militia groups against Lendu villages, of these 10 were conducted by joint Hema-Ugandan national army forces (UPDF), fourteen by Ugandan forces alone and only two by Hema militias alone, writes the think tank International Crisis Group in a 2003 report. Thus in a ten-month period the Ugandan armed forces were responsible for more than half of the attacks on Congolese soil.

On 10 April 2001, Katanga, a student at the time, saw his school destroyed by a Ugandan attack during an extremely violent massacre.

He survived the attack because he went unnoticed outside where he had gone for a cigarette during a class break. He succeeded in finding the chiefs of his village who had fled to the mountains. At a religious ceremony, the chiefs who had taken refuge asked him to defend his adopted community, the Ngiti.

In Katanga's own words: "Kagaba, Geti, Aveba villages were bombed in the same way. It led to increased contact between us. Everyone came together. Being attacked made us unite. The elders told us: we fought against the Belgians, against Mobutu, it is your turn now."

In this asymmetric war the weapons the self-defence groups had at this stage were mainly arrows: "We were ambushing, they were helping us, we were using the poison arrows the Pygmies⁷ were giving us."⁸

The conflict in Irumu escalated in early January 2001, when the Ugandan army became heavily involved. Together with Hema militias, the UPDF began to attack Walendu Bindi. When Ugandan army helicopters attacked the Cooperative for the Economic Development of the Congo on 10 January 2001, self-defence groups began to organise in the villages of the Walendu-Bindi district.

The cooperative was a major Ngiti institution that played a social and economic role throughout the region. It produced a large part of the region's food and charcoal products and supplied much of the regions' capital Bunia. It was an object of great pride, an exceptional local achievement, founded under Mobutu.⁹

In Katanga's own words: "I never accepted the death of a person, especially by shooting. I never managed to find it natural. I still think about it, it comes back. I had to do it. My community was in danger. They had asked for my help." He continued, "The Ugandans had been there for a long time, yet there had never been a single incident. We would never have thought that they would have attacked us, the civilian population: there were no fighters in our village, we had never robbed them, there was no tension. We knew that things were going on in the north among the Lendu. But it did

not concern us."

On 31 August 2002 in a UPC attack 140 people were killed and 787 disappeared in the village of Songolo, 40 kilometres south of Bunia in Irumu district.

The ICC Chamber acknowledged that Katanga was appointed in September 2002 as a simple bodyguard by one of the principal spiritual leaders of his village, named Kasaki Bandru, a 55-year-old *féticheur* (witchdoctor) from Aveba.

"The International Criminal Court has betrayed its original mission by condemning a villager designated by the Congolese government as a war criminal," according to international attorney and lawyer Juan Branco.¹⁰

“The ICC’s jurisprudence, once integrated into national law, could pose severe breaches in the right to a fair trial for the accused: hearsay is accepted as evidence; there is no timely line of reporting and no real-time transcripts are made available.”

It is the external involvement in Ituri by both Uganda and Rwanda that led to the militarisation of local disputes over land, discords facilitated by absent or corrupt state authorities and enormous socio-economic inequalities.

The Court was presented with exonerating evidence that Katanga was fighting under government orders from Kinshasa to take back eastern Congo from the invading Ugandan and Rwandan armies. "The most important is a letter whose authenticity has not been challenged, dated 23 November 2002, that instructs the Chief of Staff of the Congolese army to prepare the offensive in Ituri. It is signed by Joseph Kabila's Deputy Chief of Staff, Samba Kaputo", writes Branco.¹¹

All military operations were organised by the central government via its integrated operational headquarters set up in Bunia by the Congolese national army. It had as its scope to retake the territory lost after the end of 2002, against Rwanda in eastern Congo.

Katanga's Ngiti self-defence group, the Patriotic Resistance Force in Ituri (FRPI) took no initiative without the support and agreement of the main authorities in Kinshasa, and there was no evidence shown at trial of attacks or looting carried out by the FRPI independently.

In customary international law, one has the right to self-defence if the sovereignty of a country is breached. In the case of Katanga, the Court has indicted a village man who carried out military orders given by his own legitimate government.

The ICC chose to characterise the conflict as ethnic and local, thus a NIAC (non-international conflict) rather than an international conflict (IC). Yet all evidence points to the international nature of the conflict. A narrow focus on national dynamics that ignores the regional dimensions of a conflict risks missing the comprehension of the patterns of violence on the ground.

This characterisation on the part of the ICC also contradicts the deliberations of the International Justice Court, which in 2005 in *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo vs. Uganda)* condemned Uganda for having invaded and occupied eastern Congo and ordered it to pay reparations of 10 billion dollars. That compensation was never paid.

On 17 March 2006, Thomas Lubanga¹², founder of the initially Ugandan-backed and subsequently Rwandan-backed militia in Ituri, the Union of Congolese Patriots (UPC), was the first person arrested under an ICC-issued warrant.

In this case however the ICC judges insisted that the character of the gruelling war that lasted from July 2002 to June 2003 was "international". Instead the ICC judges in the Katanga trial defined the events for that time frame as part of a local, non-international conflict.¹³

In complete disregard for accepted international law, Katanga was condemned for having taken part in his own government's operation that was clearly ordered to fight a rebel attack – “a system of war” – on the Congolese territory, first from Ugandan forces and subsequently, after 2002, by the Rwandan army and their proxy rebel group, the UPC. Katanga's involvement, by international standards, was legitimate since the country's frontier had been crossed and there was an outright invasion.

While Katanga and Goda Sukpa from the Nationalist and Integrationist Front (FNI) went to Kinshasa in January 2005 to accept their roles as generals in the Congolese national army (FARDC), many of their comrades continued to fight on. Katanga had agreed to disarm and join the national army, yet nonetheless was arrested by authorities representing the figurehead he was fighting for.

Leading by proxy economic wars

A third and main level of criminal responsibility not addressed in court, beyond Uganda and Rwanda as invading states each with their proxy rebels, is the role of natural resources and international transnational corporations (TNCs).

Alain Denault in *Black Canada, Looting, Corruption and Crime in Africa*, points to the role of these corporations in Ituri: “conflicts over oil and gold were motivated by the presence on the spot of Canadian companies: AMFI, Barno, Barrick, Mindev in the gold field and other minerals and Heritage Oil in the oil field. By their presence they instigated the conflicts, when they did not actually feed them.”

“The second Congolese war was launched mainly to give Barrick Gold Inc. back mining concessions, which Laurent Desirée Kabila had rescinded”, the American investigative journalist and author of the book, *Genocide and Covert Operations in Africa 1993-1999*, Wayne Marsden, testified before the US Congressional Subcommittee on International Operations and Human Rights Committee on International Relations.

“During the first six months of 1997, something amazing happened

in Uganda. Between January and June 1997, Uganda exported 6,591 kilograms of gold, an astounding volume considering that two years before, in 1995, Uganda exported only one kilogram of gold. Yet this rise in gold exports was only half the story. What made the increase all the more astounding was that during 1997 mines in Uganda produced a total of six kilograms of gold. Where did the excess gold come from? How did it end up in Uganda to be exported?”, asks Rift Valley Institute researcher Dan Fahey in a report published in 2013, ‘Ituri Gold, land, and ethnicity in north-eastern Congo’.

In December 2000, then US Congresswoman, Cynthia McKinney, stood up in Congress and thundered: “The whole world knows that Uganda and Rwanda are allies of the United

“If the only choice for Hutus is repatriation, possible imprisonment and torture, it is difficult to understand what the international community expects.”

States and that they have been given a carte blanche for whatever reason to wreak havoc in the Congo.”

The UN Panel of Experts on the illegal exploitation of natural resources reports brushes aside the definition of the war in Ituri as an ethnic conflict, stating that Uganda and Rwanda financed local Hema businessmen so that they could control the lucrative gold mines in the region.

In both the Kilo and Moto areas of Ituri, the Zairian state company mining guards were replaced by Ugandan or Rwandan national army sentries. Individual recruits started monitoring access to the mining sites by guarding bridges and strategic roadblocks, as well as by levying taxes from local miners and traders. In addition to controlling the export of natural resources, the Ugandan and Rwandan military

controlled imports and distribution of goods.

The mining sector accounts for over 80% of the Gross Domestic Product (GDP) of the DRC. Of this mining, artisanal mining accounts for roughly 90% of the country's output and is today still the biggest contributor to the nation's GDP. According to a 2011 NGO study in the Ituri district alone, between 60,000 and 150,000 artisanal miners are thought to be involved exclusively in gold mining. Officially no conflict of interest between artisanal miners and industrial mining ventures exist, as the Congolese Mining Code (Code Minière) of 2002¹⁴ allows artisanal miners to operate only up until 30 meters, leaving the rest to industrial mining. In practice, however, such agreements are difficult to enforce. Artisanal miners are worried about being displaced and robbed of their livelihood.

In some areas, military groups are actually in control of the mines and are carrying out their own digging, whilst in other areas military personnel are illegally taxing the artisanal miners, either on site or when the miners carry the minerals to the nearest town or trading point. They also perpetuate insecurity by promoting the emergence of militarised local warlords.

“In Ituri, we are engulfed in a war over oil. If you compare the map of the oil region of Lake Albert to that of the massacres, there really is a strange resemblance”, said UPC spokesperson Jean-Baptiste Dhetchuvi.¹⁵

On 6 September 2002 the Congolese and Ugandan governments signed the Luanda Agreement to put in place a UN-assisted Ituri Pacification Commission (IPC). Uganda had committed to withdrawing its troops from Bunia within 80 days of the IPC's inauguration. In the wake of this agreement, Joseph Kabila – who had become president after his father was assassinated in January 2001 – and Ugandan President Museveni began to coordinate their activities in Ituri.

Since the Hema-dominated UPC was now seeking support from Uganda's ally turned rival, Rwanda, Uganda changed sides and began to collaborate with the Congolese government – together Kampala and

Kinshasa supported the formal creation of the Lendu-dominated FNI and FRPI self-defence groups (FNI). Nonetheless, decentralisation remained a key feature of these Lendu self-defence groups.

In March 2003, together the FNI and FRPI, with the help of the Congolese and Ugandan army, forced the UPC out of Ituri's capital, Bunia. Yet following the UPDF's withdrawal from Bunia on 6 May 2003, the UPC – now supplied by Rwanda – retook the district capital.

The UPC became Rwanda's proxy. "Prior to the attack to retake Bunia on 12 May 2003, Rwanda had supplied the UPC with weapons and brought back Lubanga and Ntaganda from Kigali. Rwanda reportedly told the UPC that, in order to improve their bargaining position, they had to take back Bunia before the arrival of additional peacekeeping contingents".¹⁶

By June 2003 the fighting had worsened to such an extent that a multinational intervention force, Artémis, the first autonomous EU military mission outside Europe, was deployed to Bunia, followed by a UN mission.

Who was keeping tabs on events?

"The main evidence used against Katanga at trial was provided by a single NGO report of an NGO researcher that spent a few hours in the village several months after the facts", wrote Branco.

Parents of some of the children allegedly kidnapped by rebel groups to serve as child soldiers testified at the ICC. Their children, they maintained, had not been conscripted. They had however been enticed to testify before the ICC about having fought as child combatants. Something their parents had no knowledge of, writes *Le Monde* journalist Stephanie Maupas in her book dedicated to the ICC, *The Joker of the Superpowers*. All of this raises the question of how intermediaries paid by the ICC garner testimonies in countries with fragile social situations and weak economies.

Katanga was not present at the scene of the attack on Bogoro 24 February 2003, yet that was the basis for his trial. At the time, there was a Ugandan military base in Bogoro.

The Trial Chamber acquitted

Katanga on all of the charges including rape, sexual slavery, and the use of child soldiers. The accusation of rape was exceptionally crushing for Katanga personally, since the local traditional rules called for strict correct behaviour while at war, and rape was the ultimate taboo. And while it convicted him of one crime against humanity (murder) and four war crimes (murder, attacking a civilian population, destruction of property and pillaging), the Trial Chamber rejected that he was responsible for those crimes as an indirect co-perpetrator. Instead the Chamber "recharacterised" the form of criminal liability and found him guilty as "an accessory."

Twenty-four year old Katanga was convicted for assisting the transit and stockpiling of arms for his government. These weapons were later used as part of an attack on a militia allied to the Ugandan army that killed 30 to 60 civilians.

The ICC Prosecutor, in short, failed to prove any of its legal claims – just as it failed with regard to Katanga's co-defendant, Mathieu Ngudjolo, who had been acquitted. "The Trial Chamber's "re-characterization" of the facts in the case, from finding him guilty as an indirect co-perpetrator to finding him guilty as "an accessory", "was motivated solely by the desire to ensure Katanga's conviction – thereby saving the Office of the Prosecutor from itself – was fundamentally inconsistent with Katanga's right to a fair trial", wrote legal expert Kevin Jon Heller, 8 March 2014, in 'Another Terrible Day for the Office of the Prosecutor', for the on-line international law and relations forum *Opinio Juris*.

At the trial, Katanga pointed out the fundamental distinction between the ranks assigned to the self-defence forces – the title of colonel or lieutenant-general was easily obtainable – and those attributed in the national army: "Mr. David at that time, even after the fall of Bunia, when you asked 20 out of 30 people asked said they were commanders. People only created names, titles ... so that one would know that one was also strong."

The Rift Valley Institute published an Oxford University researcher's report on the conflict in Ituri saying

exactly the same thing. "It was to the sound of the drums, the traditional tool to warn the neighbouring villages of imminent danger, that the Lendu self-defence groups appeared, village after village, in reaction to the activity of the Hema militia. Anyone who initiated one of these spontaneous uprisings or demonstrated his strength on the battlefield was automatically appointed commander, while the others were mere fighters," wrote Branco.¹⁷

In May 2014, after 13 years of imprisonment, Katanga was sentenced to 12 years in prison. The time spent in the Hague, seven years, was reduced from his sentence.

One of the three presiding judges, Judge Van den Wyngaert, published a virulent dissenting opinion underlying the need for evaluating the demands of justice. "...the Court's success or failure cannot be measured just in terms of "bad guys" being convicted and innocent victims receiving reparation. Success or failure is determined first and foremost by whether or not the proceedings, as a whole, have been fair and just. This raises the question by which standard fairness and justice should be evaluated. My view is that the trial must be first and foremost fair towards the accused."

Katanga decided not to appeal, mainly due to the length of the ICC legal procedures, which risked going beyond the sentence he would have to serve. This harrowing detail confirms the severe breach of the rights to a fair trial – and thus a speedy trial is a repeating theme in many other cases of the ICC.

Due to his continuous cooperation with the court and his genuine dissociation from his crimes, ICC judges reduced his sentence by three years and eight months. With credit for his time served since his arrest in 2007, Katanga was scheduled to be released on January 18, 2016.

As of today Katanga, who was transferred to the DRC to finish his sentence, has not been released.

Instead, he is being put on trial once again following a decision from the Kinshasa Military Prosecutor's Office to charge him with war crimes (enlisting and using children under 15 years of age), crimes against humanity (murders)

and for his alleged participation in an insurrectional movement known as FNI/FRPI from 2003 to 2005. “The proceedings are however currently adjourned because of the unavailability of some members of the High Military Court. The resumption of the trial has been announced in February 2017, but no hearing has been held yet,” says Catherine Denise, legal council for Lawyers without Borders, an international advocacy watchdog.

In a statement issued in The Hague by the ICC, 7 April 2016, the ICC approved the Congolese court’s decision for Katanga’s retrial. According to the Court, the allegations against Katanga in the Democratic Republic of the Congo’s proceedings are not the same as those for which he faced trial in The Hague.

This is an obvious breach of ‘double jeopardy’ or Article 20 of the Rome Statute: “no person shall be tried by another court for a crime if “that person has already been convicted or acquitted by the ICC.”

“Katanga speaks Lingala and Kingwana, a sub-dialect of Swahili, which is not the language spoken by the Ngiti ethnic group. He learned French and English while in prison. His nickname, Simba, “the Lion”, comes from Kingwana. The prosecutor took a careless jump, assuming that his nickname was a reflection of his military victories. Simba, instead, was an affectionate name given to him at birth by his parents in homage to his maternal grandfather, who had the same name,” writes Branco. Despite this, newspaper articles and essays worldwide continue to this day to repeat the trial’s erroneous attribution, insisting on calling him the “Lion of Ituri”, perpetuating a landslide of misinformation.

Which rules for whom?

Bosco Ntaganda was born in Kinigi, Rwanda, in 1973. When he was still a teenager, his family, which comes from the Gogwe sub-group of the Tutsi community, moved to join other family members in Ngungu, in the south of North Kivu’s Masisi territory. There he attended secondary school, but abandoned his studies at the age of 17 to join the Rwandan Patriotic

Front (RPF) in its refugee camps in southern Uganda. He then fought with the Rwandan Patriotic Front (RPF) that overthrew the Rwandan government in July 1994.

Ntaganda was known at the time as ‘the Terminator’ due to his brutality. He gained a reputation as a formidable fighter, a reputation he would solidify over his career in at least six different armed groups all backed by Rwanda – Laurent Kabila’s Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL); the Rwandan-backed rebellion, Congolese Rally for Democracy (RCD) in 1998, that began the second Congolese war, where he became the bodyguard of its president, Ernest Wamba dia Wamba. He went on to work for Wamba when he later created a splinter group backed by

“The ICC is currently holding a trial against two non-violent and democratic pan-Africanist leaders from the West African country Côte d’Ivoire: Laurent Gbagbo and youth leader Charles Blé Goudé.”

Uganda, the Liberation Movement (RCD-ML or RCD-Kisangani). Subsequently he served as chief of operations for Thomas Lubanga’s Union of Congolese Patriots (UPC). As the UPC began to collapse in late 2005, Ntaganda eventually left Ituri to join Laurent Nkunda’s National Congress for the Defence of the people (CNDP) in North Kivu, of which he became Chief of Staff.

In 2009 a peace process established that the Rwandan soldiers from the CNDP would be integrated into the Congolese national army (FARDC). Ntaganda became the deputy commander of military operation Kima II in the Kivus, the same area in eastern Congo he brought havoc to in the previous decade as a rebel, a UN report from 2009 revealed.

“By sending his troops back into eastern Congo, under the false motive of tracking down the FDLR, Kagame regained control of the economic circuits he was beginning to loose”, says Musavuli.¹⁸

Ntaganda subsequently defected and commanded another Rwandan backed rebel movement, the M23, but was eventually elbowed out by its other leader, Sultani Makenga. In-fighting between the two factions broke out and escalated in Goma, the capital of north Kivu, in November 2012. Eventually full-blown violence erupted in late February 2013.

Ntaganda fought for two decades in eastern Congo. However, the charges against him at the ICC only focus on events in Ituri region from 2002 to 2003, where he was serving as Deputy Chief of the armed wing of the UPC, the Patriotic Forces for the Liberation of Congo (FPLC).

It is impossible to understand why the ICC prosecutor chose to limit the time frame Ntaganda was being charged for to 2002-2003 and the limited Ituri area. By doing so the ICC is avoiding the epicentre of violence in the last two decades.

For example the Rwandan-supported RCD rebel group has retained control over a vast territory comprising of various regions: North Kivu, South Kivu, Maniema, north Katanga, eastern Kasai, and Kisangani.

The eastern Congolese regions of North and South Kivu, areas scrutinised by the UN as possible genocide hot zones, are completely omitted from the ICC’s indictments.

Impunity for rebel movements that have committed serious crimes against humanity in the Kivu region has segued into further destabilisation by creating an army within an army, says legal scholar, author and human rights activist Boniface Musavuli.

This, according to the author, was in part due to the peace accord, the Global and Inclusive Agreement, that established a framework for a transitional government, the integration of security services and mandated countrywide elections. The head of the Rwandan-backed RCD rebel group, Azarias Ruberwa, was named as one of the country’s four vice-presidents,

while senior RCD officers secured high-ranking positions and the control of North Kivu and Western Kasai regions.

Impunity for those responsible for fuelling these foreign-backed rebel aggressions has only led to a continuation of the war to this day culminating in what Musavuli has called the Congolese genocides¹⁹, as the same rebel forces, under different acronyms – previously the AFDL in 1996, RCD-Goma in 1998, UPC in 2002, Mutebutsi in 2004, CNDP in 2007, M23 in 2012 – fight and occupy territory.

By not acknowledging the international war of aggression in eastern Congo in its case law the ICC only helped further fuel this impunity.

Two other indicted individuals were acquitted after going on trial: Katanga's co-accused Congolese Mathieu Ngudjolo, as well as Rwandan FDLR leader Callixte Mbarushimana.

Who are the FDLR rebels – the French acronym for the Democratic Forces for the Liberation of Rwanda? Many say, including political prisoner Victoire Ingabire and exiled opposition leader and former Rwandan Prime Minister Faustin Twagiramungu, that

they are simply Rwandan refugees willing to protect more than 100,000 survivors of the 1994 exodus from Rwanda to the eastern Democratic Republic of the Congo and their children born in exile. Former Tanzanian President Jacaya Kikwete has said the same and urged Rwandan President Paul Kagame to negotiate the refugees' safe return to Rwanda.

Confidential documents published in *Europe, Crimes and Censorship in Congo* by Great Lakes specialist and scholar Charles Onana, reveal that the European Union is aware that the FDLR rebel group is not a real threat to Rwanda's stability, at least since 2005, despite officially claiming the contrary.

The false pretext for invading eastern Congo – the fear of a backlash from the Hutu refugees of which 2 million had fled into eastern Congo in 1994 – has been used by Rwanda for two decades, since as early as 1996, underlines Alain Denault in *Black Canada, Looting, Corruption and Crime in Africa*.

Today in exile in Europe, Callixte Mbarushimana is a case example of scapegoating. Mbarushimana is a Hutu Rwandan and former United Nations

employee who allegedly participated in the Rwandan Genocide of 1994.

Mbarushimana was served an international arrest warrant by Rwandan authorities in 2001 while he was working in Kosovo. However, a UN tribunal along with two local tribunals (the supreme court of Kosovo and a panel of three judges from the Gnjilane district in former Yugoslavia), after examining the dossier, found there were no grounds for his arrest and extradition. International Criminal Tribunal for Rwanda (ICTR) Prosecutor Carla del Ponte also dismissed the charges in 2002 after closely examining the dossier.

In the meantime, Mbarushimana lost his job. After two hearings, he won the right to get his post back, as well as his salary.

In 2008, Mbarushimana was arrested at the airport in Frankfurt concerning a case opened in Germany against the President of the Democratic Forces for the Liberation of Rwanda (FDLR) Ignace Murwanashyaka and his deputy, Straton Musoni. Mbarushimana was held for months in prison before being released. The Stuttgart trial – the first such trial in Germany using the new criminal law known as *Völkerstrafgesetzbuch* (international criminal code) is an example of how the ICC's jurisprudence, once integrated into national law, could pose severe breaches in the right to a fair trial for the accused: hearsay is accepted as evidence; there is no timely line of reporting and no real-time transcripts are made available for the press; a large part of the hearings are held in closed sessions and are not available to the public. Berlin-based group, the European Centre for Constitutional and Human Rights (ECCHR), the only NGO monitoring this first German trial using the new international criminal law, says it seems to lack in analysis and rigorous research.

Despite the previous tribunals' decisions to clear him of all involvement in the 1994 Rwandan genocide, Mbarushimana was arrested once again in France for being a key leader for exiled Hutus in the Democratic Republic of Congo in October 2010.

On 28 September 2010, Mbarushimana was indicted by the



Officials light the "flame of remembrance" at the 20th Anniversary Commemoration of Rwanda Genocide, on 11 April, 2014, in Addis Ababa, Ethiopia

International Criminal Court (ICC) in The Hague – this time for crimes against humanity and war crimes allegedly committed in the Democratic Republic of the Congo in 2009 while he was President of the FDLR. He was extradited to the ICC on 25 January 2011.

However, he was released on 23 December 2011 after the ICC found there was insufficient evidence to prosecute him. The prosecutor's evidence presented at trial would have been insufficient even for a case of defamation, as Mbarushimana has the right to criticise the Paul Kagame regime, comments Stéphanie Maupas in her book on the ICC.

Upon his arrival in Paris four days later he was again interrogated by French authorities, this time concerning another case opened in 2010 in Paris against him, for the 1994 genocide.

Spanish, non-violent activist Juan Carreo, who was accused of being a financier of the FDLR by a 2009 UN report, says that he is the target of superficial reporting and a smear campaign against him. In 1997 Carreo held a 42-day hunger strike in front of the European Parliament to alert the world of the plight of Hutu refugees in Congo. He has been key in assisting the Spanish judiciary in its investigation into the murder of Spanish missionaries in Rwanda and the Congo. "A report that considers all Hutu refugees in Congo as being genocidaires (perpetrators of genocide), when many were born after the 1994 genocide occurred, is misleading," he says. In 2008, Spanish judge Fernando Andreu Merelles issued international arrest warrants for 40 leaders from the *Rwandan Patriotic Front* (RPF), the country's ruling political party, on counts of 'acts of genocide, crimes against humanity, war crimes and acts of terrorism'. Carreo also launched the Inter-Rwandan Dialogue Initiative in hopes to build authentic reconciliation within Rwanda today.

"There is a reason that European Union policy has pinpointed the FDLR as the main culprits in eastern Congo, as its one way to avoid putting a finger on those who are really responsible for the war, namely the U.S. and U.K. backed Ugandan and Rwandan rebel forces

wreaking havoc in eastern Congo since 1996", explains Juan Carreo.

"The international community is asking these refugees to disarm, yet that would leave entire communities as prey to incurring rebel attacks in the region. International media turns a blind eye to the fact that the FDLR has repeatedly asked for dialogue with the Rwandan government to secure protection in exchange for disarmament. The Rwandan government has refused. If the only choice for Hutus is repatriation, possible imprisonment and torture, it is difficult to understand what the international community expects," says Carreo.²⁰

The FDLR are not the aggressors, but rather the Rwandan backed rebels. Rwanda has consistently argued that its forces, while deployed along the Rwanda-DRC border, have not crossed into Congolese territory, a position supported by U.S. and United Nations officials. Congolese officials, however, argue that Rwandese soldiers were captured inside Congo.²¹

Not applying customary international case law on aggression when analysing conflicts not only distorts justice per se, but also has devastating consequences for the population of concern.

A French-UN Coup d'état

When the 2010-2011 crisis in Côte d'Ivoire ended in April 2011 with a UN intervention, long-time peace-process mediator Thabo Mbeki wrote *What the world got wrong in Côte d'Ivoire*. The examination into the country's upheavals seemed to fall on deaf ears. It was never referred to nor considered in the ICC prosecutor's accusation. Former secretary general of Amnesty International Pierre Sané spoke of the "logic of the absurd" being implemented by the UN and French military intervention to oust elected President Laurent Gbagbo, the legitimate winner in the November 2010 elections. It was Gbagbo himself who had called for a recount of the votes.

In what looks increasingly like a "criminalisation of international justice", the ICC is currently holding a trial against two non-violent and democratic pan-Africanist leaders from the West African country Côte

d'Ivoire: Laurent Gbagbo and youth leader Charles Blé Goudé. It is a trial that even in its nascent, pre-trial phase, was deemed so lacking in incriminating evidence that former Mozambique president Joaquim Chissano stated that it should never have taken place.²²

The ICC in this case (as analysed in detail in various articles)²³ has legitimised a coup d'état, which could only lead to an authoritarian regime and increased instability.

By siding with a distorted narrative and depicting an aggressor, Alassane Ouattara, as an acceptable democratic option, the Court invalidates its impartial authority. Many diplomats, politicians and journalists hesitate to openly express their appreciation of Gbagbo and Blé Goudé as symbols of a democratic, socialist and non-violent resistance movement pushing for genuine change on the African continent, because of the ICC's dominating voice.

The situation in Côte d'Ivoire remains volatile and civilians remain in precarious conditions that ensued after Gbagbo's arrest and Ouattara's appointment. On 6 January 2017, a military mutiny in Bouaké, the former headquarters of the *Forces Nouvelles* rebellion that brought Ouattara into power, quickly spread through the country, seeking their pay back for the work they had done. Many former rebels today occupy major posts in the current regime, they are either integrated into the national army or "some of them have also retained their personal militias and have a large private military arsenal. The scenario was the same everywhere: soldiers came out of their camps, fired shots into the air and blocked the main roads," wrote Fanny Pigeaud, author of *France-Côte d'Ivoire, une histoire tronquée*²⁴. Most sectors of the economy are currently on strike and the government has been severely cracking down on trade unionists, journalists and opposition leaders.

The Ivorian constitution stipulates that no refugee should exist in time of peace, yet today there are over 100,000 Ivorian refugees in neighbouring countries and countless others escaping to Europe.

Since September 2015, in the three Ghanaian refugee assistance centres housing approximately 11,000 Ivorians, food aid has been cut, despite the total dependency on this assistance for survival, according to World Food Programme surveys. Malnutrition rates rose to 10% even before the gradual cuts in food aid. A May 2013 nutrition survey had found global acute malnutrition (GAM) in 10.9% in the Ampain camp, 6.1% in Egeikrom camp and 7.1% in Fetentaa camp. Ampain recorded a 2.2% increase in GAM – deemed “serious” according to World Health Organisation classification. Despite these statistics UNHCR phased out the nutritional program and replaced it with skills and training programmes for some refugees. Refugees, despite these dire circumstances, do not return due to news of abduction, imprisonment or the occupation of their land.

Ivorian refugees also fear they will end up as internally displaced. And rightfully so.

Six years after the 2011 crisis in Côte d’Ivoire, there are still 303,000 internally displaced people and the number has increased under the Alassane Ouattara regime (24,000 new displaced persons in 2012; 29,500 in 2013; 5,500 in 2014; and 3,200 in 2016;) according to the Centre for Internal Displacement Monitoring of the Norwegian Refugee Council Global reports.

They also fear the targeting of the Wé population in western Côte d’Ivoire, which some human rights activists are calling genocide.

Shortly after his 2011 arrest, buses full of Gbagbo supporters leaving from all around Europe began to pour into the Hague to call for his release. For six years they have not stopped coming to demonstrate in front of the ICC. The trial, which began in 2011, opened again on 6 February 2017. So far, it has produced no material evidence of criminal intent whatsoever or actions on the part of the Gbagbo government to support the prosecutor’s case. Nor has it provided tenable or credible witnesses.

As the trail reopened in 2017, the first witness called, Salifou Ouédraogo, presented the prosecutor with two

videos. One was a violent scene showing people burned alive. However, the footage, it was found, was actually filmed in Kenya in 2007 and not in the Ivorian town of Yopougon in 2011. The Gbagbo defence had pointed out the untenable fact that the tape was in a language, Swahili, not spoken in Côte d’Ivoire, as early as February 2013, yet the witness was still subpoenaed to testify.

Worsening Chances for Peace

In 15 years the ICC has charged 32 African nationals to date,²⁵ yet only sixteen have actually come to the Hague. The other 16 have either failed to appear, are fugitives, are not handed over by the country where they reside in or have in the meantime died.

Out of the remaining 16 cases, seven were closed before going to trial either because the suspect was dismissed or acquitted for insufficient

“I have seen justice abused and manhandled by those whose primary duty it was to respect it and safeguard it at all costs.”

proof, as well as two Kenyan cases that were terminated.²⁶

African states have argued that the ICC indictments interfere negatively with on-going peace processes to mediate conflicts.

In fact this was the case in Uganda, whose Juba peace process begun in 2006 crumbled and led to a continuation of the war, mainly owing to the ICC’s refusal to withdraw the 2005 indictment of Lord Resistance Army rebel leader Joseph Kony, a refusal it upheld even though many Ugandan government officials at the time travelled to the Hague and pleaded with it to drop the charges in the name of the peace process and the end to war. The LRA’s leader’s exact whereabouts are today unknown.²⁷

Key foreign participants in the Ugandan peace process, such as South African Bishop Desmond Tutu and

Britain’s UN Ambassador Emyr Jones Parry, have acknowledged that the ICC’s role in Uganda has probably worsened the chances for any peaceful resolution of the Ugandan conflict.²⁸

It could be said that the NATO intervention in Libya that started on 19 March 2011 was the result of misinformation. There were allegations in the media that Viagra was being distributed by Gaddafi to his soldiers and that he ordered the bombings targeting civilians in the city of Benghazi to quell popular uprisings.

Yet a recent investigation into the 2011 Libyan crisis by journalist Patrick Mbeko, ‘Target Gaddafi’²⁹ puts the argument that this was CIA-generated propaganda. For the three Libyan ICC indictments, of which one was against Gaddafi, no independent investigations were undertaken.

Then again, in March 2013, the ICC acquitted Kenyan Cabinet Secretary Francis Muthaura who was accused of involvement in the 2007 post-electoral violence in his country. Following the court’s decision to drop the charges, Muthaura – who as the Kenyan Ambassador to the UN, as Chair of the Fourth Committee and Chair of the Charter Review Committee of the UN – had always supported international law and worked to advance the cause of the Court – issued a personal statement explaining his “awful odyssey” at the ICC.

“I submitted to the ICC even though the case against me was always baseless and unfair. I never thought I would be a target of the ICC or any court because I have always lived my life under the law. Never did I think that false allegations uttered against me would be accepted as truth by the ICC.”

Muthaura said that he was deeply saddened. “I have seen justice abused and manhandled by those whose primary duty it was to respect it and safeguard it at all costs. It is an injustice that charges were brought by the prosecutor. It is a tragedy that safeguards to prevent abuse of the ICC mechanism so clearly and so obviously failed.”

Researcher in international criminal law at Louvain University in Belgium, Damien Scalia, in *In Hearing Tried*

People in International Criminal Justice: Sympathy for the Devil? argues for the need to include the point of view of the persons convicted so as to evaluate the ICC's work. Shedding more light on such experiences may bring more understanding into the on-going proceedings.

In 15 years three cases led to a prison sentence.³⁰ Yet little is known about these individuals.

The least one can say is that the ICC has been a reckless experiment in what Amartya Sen has identified in *The Idea of Justice* as a tendency derived from the school of transcendental institutionalism, namely an overpowering concentration on institutions.

Another school of thought instead embraces a realisation-focused comparison approach, namely an investigative realisation based on comparisons that focus on the advancement or retreat of justice and on the lives that people are able to lead. "The focus on actual lives in the assessment of justice has many far-reaching implications for the nature and reach of the idea of justice," writes Sen.

He points to distinct forms of justiceness for which the idea of justice has to cater to those identified in early Indian jurisprudence – between *niti* and *nyaya*. *Niti*, relates to organisational propriety as well as behavioural correctness, whereas *nyaya* is concerned with what emerges.

Early Indian jurisprudence warned, "it is crucial to make sure that the 'justice of fish', known as *matsyanyaya*, is not allowed to invade the world of human beings. The central recognition here is that the realisation of justice in the sense of *nyaya* is not just a matter of judging institutions and rules, but of judging the societies themselves".³¹

South Africa attributed its withdrawal from the ICC to incompatibility with the Court's vision of conflict resolution and its exclusion of peace when considering issues of justice.

"The Republic of South Africa has found that its obligations with respect to the peaceful resolution of conflicts at times are incompatible with the interpretation given by the

International Criminal Court... In complex and multi-faceted peace negotiations and sensitive post-conflict situations, peace and justice must be viewed as complementary and not mutually exclusive," reads the official declaration of South Africa's withdrawal from the body, signed on 10 October 2016 by Minister of International Relations and Cooperation Maite Nkoana-Mashabane.

South Africa's vision is a red flag. Reaching for a framework for a voice of reason that encompasses both *niti* and *nyaya* when it comes to justice is one effective way to counter the pervasiveness of unreason. ■

References

- Dapo Akande, 'What exactly was agreed in Kampala on the crime of aggression?', in *Equality of Arms Review*, International Bar Association, Volume 2, Issue 2, November 2010.
- Juan Branco, 'From the Katanga case to the Global Social Contract: a look at the International Criminal Court'. Thesis for Doctorate in Law, 26-11-2014.
- UN Report on the Illegal exploitation of natural and other resources, October 2002, p 23.
- UN Special report on the events in Ituri, Jan 2002-Dec 2003 (S/2004/573)
- Koen Vlassenroot, Sandrine Perrot and Jeroen Cuvelier, 'Doing business out of war, an analysis of the UPDF's presence in the Democratic Republic of Congo', *Journal of Eastern African Studies* Vol. 6, No. 1, February 2012.
- Former vice-President and 2006 Congolese presidential candidate, Jean-Pierre Bemba, was arrested in 2008. Bemba is also facing charges at the ICC, not for events in the DRC, but in Central African Republic from 25 October 2002 to 15 March 2003.
- The first inhabitants of Ituri are believed to have been Mbuti pygmies, who still live in the Ituri rainforest.
- Juan Branco, op. cit
- Élisabeth Clavier, 'Vivre dans le "combattantisme": Parcours d'un chef de milice en Ituri (DRC)', Terrain, September, 2015.
- Juan Branco, http://www.lemonde.fr/afrique/article/2016/01/26/la-cpi-ou-le-scandale-de-l-affaire-germain-katanga_4853606_3212.html
- Juan Branco, "From the Katanga case...", op.cit.
- Lubanga began his political career at the University of Kisangani with the sole party permitted in Zaire's one-party state, the Popular Movement of the Revolution (MPR). When multipartism is established, he chooses the Union for Democracy and Social Progress (UDPS), the main opposing political party in the Democratic Republic of the Congo (DRC) of doctor Étienne Tshisekedi, where he was elected president of the youth for the region of Ituri. As unemployment ravaged the area, like many that young Congolese Lubanga turns to artisanal mining, before holding a bean selling stand at the central market of Bunia. During the Second Congo War, Lubanga was a military commander and "minister of defence" in the pro-Uganda Congolese Rally for Democracy-Liberation Movement (RCD-ML). Lubanga founded the UPC in 2001 but was dropped by his ally Uganda in 2002 and thus turned for support to Rwanda. After the capture of Bunia he fled to Kigali before staging another attack in Ituri until his decision to join the disarmament programme.
- "The Pre-Trial Chamber came to the conclusion that from July 2002 to 2 June 2003 the conflict was international, by virtue of the presence of Uganda in Ituri. It further decided that from 2 June 2003 until the end of December 2003 the conflict was of a non-international character" in http://www.ibanet.org/ICC_Congo
- Congo began reviewing the 2002 mining code in 2012 and in 2015 proposed hiking profit taxes to 35% from 30%, raising the state's free share of new mining projects to 10% from 5% and royalties on copper and cobalt revenue to 3.5% from 2%. Yet despite activist pressure to undertake reforms in the mining code

these proposals have been dropped since. <http://www.mining.com/activists-urge-congo-government-to-pass-new-mining-code/>

- Alain Denault, *Noir Canada, Pillage, corruption et criminalité en Afrique*, écosociété, Montréal, 2008. p 134
- Tamm Henning, *The UPC in Ituri, The external militarization of local politics in north-eastern Congo*, The Rift Valley Institute 2013. p 38
- Juan Branco, "From the Katanga case...", op.cit.
- Boniface Musavuli, *Les Génocides des congolais, De Léopold II à Paul Kagame*, éditions Monde Nouveau, Vevey, Suisse, 2016. p 192
- Ibid p 115
- Juan Carreo, interview with author, Mallorca, Spain 2014.
- Ted Dagne, 'The DRC: Background and current developments', Congressional Research service, 3 December, 2008.
- Nicoletta Fagiolo, *What is Human Rights Watch watching?* <https://insnbc.me/2016/06/23/what-is-human-rights-watch-watching/>
- Nicoletta Fagiolo: *Laurent Gbagbo and the right to difference*, <http://www.resetdoc.org/story/00000022184; Things still fall apart, the politics of memory in Côte d'Ivoire; The dangerous idea of non-violence in Côte d'Ivoire> <https://www.academia.edu/30797167; 'The Gbagbo case. When international justice becomes arbitrary'> <http://www.resetdoc.org/story/0000022641>.
- Fanny Pigeaud, 'La Côte d'Ivoire en zone de turbulences', *Mediapart*, 8 January 2017 <https://www.mediapart.fr/journal/international/080117/la-cote-d-ivoire-en-zone-de-turbulences?onglet=full>
- The ICC has charged thirty-two people to date yet only 16 have come to The Hague. They are all Africans: Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo, Dominic Ongwen (Uganda); Thomas Lubanga, Germain Katanga, Mathieu Ngudjolo Chui, Bosco Ntaganda, Sylvestre Mudacumura and Callixte Mbarushimana (DRC); Jean-Pierre Bemba (CAR); Ahmed Harun, Ali Kushayb, Omar al-Bashir, Bahr Idriss Abu Garda, Abdallah Banda Abakaer Nourain, Saleh Mohammed Jerbo Jamus, Abdel Raheem Muhammad Hussein (Sudan); William Ruto, Joshua Sang, Francis Muthaura, Uhuru Kenyatta, Henry Kiprono Kosgey and Mohammed Hussein Ali (Kenya); Laurent Gbagbo, Simone Gbagbo and Charles Blé Goudé (Ivory Coast); Muammar Gaddafi, Saif al-Islam Gaddafi and Abdullah Al-Senussi (Libya); Mr Al Mahdi (Mali). These do not include other arrest warrants handed out by the ICC such as in October 2013, when the ICC charged a Kenyan citizen, Walter Osapiri Barasa, with three counts of corruptly influencing a witness, stating that Kenya must now arrest Barasa. Also four of Bemba's lawyers stand trial for allegedly corruptly influencing witnesses.
- Three cases, citing insufficient prosecution evidence, were not confirmed at the pre-trial stage: Henry Kiprono Kosgey and Mohammed Hussein Ali from Kenya and Abu Garda from Sudan; in 2 cases from Kenya the charges were withdrawn, Francis Kirimi Muthaura and Uhuru Muigai Kenyatta; and two Kenyan cases were terminated, William Ruto's and Joshua Arap Sang's, for insufficient evidence.
- A member of Kony's group Dominic Ongwen was recently arrested in the Central African Republic and is facing charges at the ICC. On March 23, the ICC confirmed 70 charges of war crimes and crimes against humanity for Dominic Ongwen, a former child soldier who became a senior LRA commander. The trial began in December 2016.
- David Hoile, *Justice Denied, The reality of the International Criminal Court*, Africa Research Center, London, 2014. p 248
- Patrick Mbeko, *Objectif Kadhaifi: 42 ans de guerres secrètes contre le Guide de la Jamahiriya arabe libyenne*, Broché, Paris, 2016.
- Three cases were closed with a condemnation at the ICC: German Katanga and Thomas Lubanga's and that we have briefly looked at, who are both facing a retrial in their home countries and the case of Al Mahdi from Mali, allegedly was a member of Ansar Eddine, a mainly Tuareg movement associated with Al Qaeda in the Islamic Maghreb ("AQIM") who has pleaded guilty for the destruction of 10 historical and religious monuments in Timbuktu (9 mausoleums and the door of the Sidi Yahia mosque) between June 2012 and July 2012. He was condemned to serve a 9-year prison sentence.
- Amartya Sen, *The Idea of Justice*, Harvard University Press, Cambridge Massachusetts, 2009. Preface and p 9.

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Build a Rainbow Bridge of People-to-People Exchange and Create a China-South Africa Community of Shared Future



As culturally diverse and multi-ethnic countries, China and South Africa should all the more cherish the diversity of human civilisation and cultures, draw on each other's strengths, seek commonalities while shelving differences, and set up an inspiring model for exchange between the Chinese and African civilisations.

By Liu Yandong

I am pleased to come to Pretoria in such a beautiful season. It will be Freedom Day in South Africa in two days' time. This will be a great occasion to celebrate the spirit of fighting for freedom championed by Nelson Mandela and other political leaders, a spirit that still inspires our world today.

I am happy to join friends both old and new in the Rainbow Nation today to witness the official launch of China-South Africa High Level People-to-People Exchange Mechanism (PPEM). Setting up such a mechanism has been a visionary decision made by President Xi Jinping and President Jacob Zuma and marked a milestone in the history of people-to-people ties and overall state-to-state relations between our countries.

Here, on behalf of the Chinese government, I wish to express heartfelt thanks to the government of South Africa for its thoughtful arrangements and extend best wishes to all those who have long been committed to China-South Africa friendship.

The congratulatory messages from President Xi and President Zuma speak volumes about the degree of importance our two governments attach to China-South Africa people-to-people exchanges and put forth high expectations on both our teams, which is deeply inspiring to all of us.

The FOCAC Johannesburg Summit held in South Africa in December 2015 was the first Forum on China-Africa Cooperation summit to take place on the African continent in the 15 years of the Forum. As the host country, South Africa presented the world a "perfect and extraordinary" Summit and ushered in a new era of win-win cooperation and common development for China and Africa. During the Summit, leaders from China and African countries agreed to upgrade China-Africa relationships to a comprehensive strategic and cooperative partnership and identified "mutually enriching cultural exchanges" as one of the five major pillars supporting China-Africa relations and "cultural and people-to-people plan", as one of the ten China-Africa cooperation plans. The message is clear: We should pursue closer cultural interactions, policy coordination and people-to-people

exchanges to advance common progress and ensure the sustained growth of China-Africa friendship from generation to generation.

Today, we are here to inaugurate the PPEM. This is a major step forward in the implementation of the outcomes of FOCAC Johannesburg Summit and the first such high-level intergovernmental platform between China and an African country aimed at promoting people-to-people exchanges. It is yet another milestone in the growth of both China-South Africa relationship and China-Africa cooperation.

Despite the long distance between China and South Africa, interactions between our peoples go back to ancient times and the river of friendship runs a long course. We were bonded together by our shared cause and common pursuit. Ceramics from China were

“People in China and Africa have common memories of standing in solidarity during the fight against colonialism and pursuit of national independence in the 20th century.”

discovered on the site of the ancient Kingdom of Mapungubwe, which flourished as early as 1,000 years ago in what is today's South Africa. Over 400 years ago, a group of Chinese craftsmen and skilled workmen arrived in South Africa, opening the door of direct interaction between the two sides.

People in China and Africa have common memories of standing in solidarity during the fight against colonialism and pursuit of national independence in the 20th century. The Chinese people firmly supported the just cause of the South African people against apartheid, forming deep bonds of solidarity and mutual support in this process. Chairman Mao Zedong cared much about South African people's struggle against racist rule. In May

1954, he sent a message to express full support for their just position of fighting for democratic rights and opposing racial discrimination and oppression.

The 21st century has witnessed ever closer interactions between the Chinese Dream and the African Dream and ever broader people-to-people exchanges between our countries. During South Africa's hosting of the FIFA World Cup in 2010, players were cheered on by African drumbeats and vuvuzelas made in China. In the same year, China hosted the World Expo, in which the South African pavilion entitled "Rise of A Modern Economy--Ke Nako!" presented a colourful and modern South Africa after apartheid.

Inspired by our time-tested friendship, China and South Africa have been committed to developing our special relationship as one between comrades and brothers. Since the establishment of diplomatic ties in 1998, our bilateral relationship has developed across the board and has been upgraded from a partnership to a strategic partnership, and then to a comprehensive strategic partnership. The past five years saw two visits by President Xi to South Africa, three visits by President Zuma to China, numerous meetings between the two presidents on bilateral and multilateral occasions, and in-depth exchanges between Premier Li Keqiang and President Zuma. Our bilateral relationship has maintained a strong momentum and kept enriching itself. It is now in its best time ever. Under the *China-South Africa Five-to-Ten Year Strategic Programme for Cooperation* signed in 2014, the two sides conducted wide-ranging cooperation in areas such as industrialisation, special economic zones, marine economy, infrastructure, human resource development, finance and culture. With a two-way trade volume of 35.3 billion US dollars, China has been South Africa's largest trading partner for eight consecutive years. As important members of BRICS and the G20, China and South Africa have been making joint contributions to China-Africa cooperation, South-South cooperation and global governance, serving as an example for solidarity and cooperation between China and Africa and between major developing

countries.

It is delightful to see how our people-to-people exchanges have blossomed alongside enhanced political mutual trust and closer economic cooperation. South Africa hosts more Chinese students, Confucius institutes and classrooms and has more sister provinces and cities with China than any other African country. It is one of the most popular destinations in Africa for Chinese tourists and the first country on the African continent to include Chinese teaching in its national education system. Positive progress has also been made in the setting-up of cultural centres in each other's countries, the building of scientific parks and exchanges of scientific personnel. The Year of South Africa was successfully held in China in 2014, so was the Year of China in South Africa in 2015. Both were jointly designated by President Xi and President Zuma as flagship programmes and national level platforms for people-to-people exchanges. The Year of China in South Africa set a record of over 200 events and the participation of about 100,000 people. South Africa's dance and wine is getting popular among the Chinese people, while China's Peking Opera and martial arts have drawn more and more South African fans. Many young South Africans choose to work and live in China. In 2015, a documentary entitled *South Africans in China* was released in Beijing, which vividly recorded the real life of 12 South Africans in China and showcased the friendly exchanges and bond between ordinary people of the two countries. One of them is Byron Jacobs living in Beijing. He came to China to learn martial arts, became the best student of his Chinese teacher, and is now campaigning to include martial arts in Olympic competition.

Mr. Nelson Mandela once said that "even the most fantastic dreams can be achieved if we are prepared to endure life's challenges." Inspired by the story of Nelson Mandela, Chinese artists wrote the song *Glorious Years* in the early 1990s, which was hugely popular and became a classic among the Chinese. As its lyrics read, "Can we make no boundaries between colours? On this earth, don't make distinctions

between you and I. A riotous diffusion of colours emits beauty." It is said that Mr. Mandela was quite moved when hearing the song. This well testifies to the unique power of cultural exchanges which can easily transcend time and space and touch the very heart of the people.

Mutual understanding is essential for amity among the people, which in turn holds the key to state-to-state relations. During his visit to Africa four years ago, President Xi put forth China's Africa policy featuring "sincerity, being result-oriented, affinity and good faith" and pointed out that "the foundation and lifeline of China-Africa relations lie with the people", and it is important to "strike a chord in our hearts" through dialogue and actions. Only with a strong bond between the peoples can our two countries enjoy closer ties and greater sincerity, get stronger popular

“With a two-way trade volume of 35.3 billion US dollars, China has been South Africa's largest trading partner for eight consecutive years.”

support for our comprehensive strategic partnership, and ensure sound growth of our bilateral relations in the years to come. The PPEM will create a broader and stronger "bridge of rainbow" for friendship between our two peoples. This bridge, connecting the Asian and African continents and our two great civilisations, will bring our people-to-people exchanges to a brand new stage.

Ladies and Gentlemen,
Friends,

The world we live in today is undergoing profound changes. Uneven development, lack of growth momentum, inadequate global governance, terrorism, the backlash against globalisation and rising protectionism are affecting global peace and development. At the same time, industrialisation and urbanisation

in emerging economies continue to move forward. Transformations brought by new technologies continue to unfold, and new opportunities for integrated development are in the making for the global economy. In his speech at the UN Office at Geneva earlier this year, President Xi raised the profound questions of what kind of world we need to build and how to build it. To answer these questions, he gave a comprehensive and systematic overview of the concept of building a community of shared future for mankind as an ideal blueprint for the future of human society, presenting China's proposal and vision in this regard.

This concept of a community of shared future has been well borne out in the relationship between China and Africa. This is also true when it comes to relations between China and South Africa. Facing common challenges and opportunities, our two countries have been "distant neighbours", and each other's important partners on the same journey.

China has come a long way in the past 38 years. Thanks to reform and opening up, it became the world's second largest economy. It has lifted more than 700 million people out of poverty and delivered a better life for its people. In 2016 alone, over ten million Chinese people were lifted out of poverty. In the coming five years, China aims to create over 50 million new urban jobs and bring down the number of people living in poverty by another 40 million and more. It is expected to import over 8 trillion US dollars-worth of goods and invest more than 750 billion US dollars overseas, and its people are expected to make more than 700 million outbound visits. Having achieved high-speed growth for over 30 years, China has come to a challenging phase where it needs to shift the gear of growth and conduct profound structural adjustments in order to enhance its growth quality and efficiency and upgrade its economy. The Chinese people are striving in unison to realise the "two centenary goals" and the Chinese dream of the great renewal of the Chinese nation.

At the annual sessions of the National People's Congress and the

Chinese People's Political Consultative Conference held last month, objectives for China's economic and social development were laid out for 2017, an important year for implementing China's 13th Five-Year Plan. It is also the year when the Communist Party of China will hold its 19th National Congress.

In this important year, we will continue to focus on development as the top priority and strive for higher quality and efficiency of development. We will maintain steady progress, pursue innovative, coordinated, green, open and shared development, embrace and guide the new normal of economic growth, and advance supply-side structural reform.

We will continue to put people at the centre of development and work to improve their well-being. To this end, we will deliver more benefits to the people, ensure that they take ownership of the development process and promote their all-round development.

We will stay committed to innovation as the primary driver of development. That is why we are planning major projects on scientific and technological innovation oriented toward 2030, launching a pilot reform on all-round innovation, and building major national scientific and technological infrastructure and technological innovation centres. In addition, we are vigorously promoting business start-ups and innovation by the general public in order to build up new driving forces for development.

Internationally, China will integrate into the world with greater openness and share with other countries its development opportunities. The Belt and Road Initiative put forth by President Xi in the autumn of 2013 follows the principles of extensive consultation, joint contribution and shared benefits, and aims to realise green development, public health improvement, think tank cooperation and advancement of peace along the routes. All countries are welcome to board the "fast train" of China's development. So far, the initiative has received active response and support from more than 100 countries and international organisations, among

which over 40 have signed cooperation agreements with China. This year, China will host the Belt and Road Forum for International Cooperation and the BRICS Xiamen Summit to discuss ways of taking forward win-win cooperation.

Africa, a continent of hope, is unleashing its growth potential. With a growth rate of 5% from 1995 and 2014, it is showing a strong momentum of collective rise. We are delighted to see that South Africa, as the most advanced economy with the greatest overall strength on this continent, has in recent years cemented progress in racial reconciliation, accelerated economic and social development and made significant strides in various national endeavors. South Africa has made outstanding achievements in hosting

“We need to leverage the propelling role of the PPEM, strengthen overall and top-level planning, and inject vitality into the comprehensive strategic partnership between our two countries.”

corporate headquarters and bases, advanced manufacturing, high-tech industries, infrastructure, finance, media, education and health at home. It has also played an increasingly important role in international and regional organisations, including the United Nations and the African Union. Under the theme of "Our future - make it work", South Africa has formulated the National Development Plan 2030 to eradicate poverty, reduce inequality, improve economic strength, enhance overall national capacity and promote unity and cooperation of the whole society by 2030. We wish South Africa even greater success in these endeavours.

In the words of Nelson Mandela, "If there are dreams about a beautiful South Africa, there are also roads that lead to

their goal." With complementarities in development strategies, China and South Africa may well join hands for common development. This not only delivers benefits to the Chinese and South African peoples, but also helps to steer and catalyse China-Africa cooperation. China always views its relations with South Africa from a strategic and long-term perspective, and endeavors to fully implement the outcomes of the FOCAC Johannesburg Summit with a view to translating our traditional friendship into greater impetus for cooperation. Indeed, our converging strategic interests, massive potential and broad space for win-win cooperation have brought our two peoples together, endeavoring to achieve the dream that we share.

Ladies and Gentlemen,
Friends,

Ancient Chinese philosophers believe that "The supreme good is like water". Embodying amazing accomplishments of mankind, civilisations are as unique as water, flowing endlessly and nourishing everything along their course. People-to-people exchange is the "driver" of friendship and "lubricant" for state-to-state relations. Next year, China and South Africa will celebrate the 20th anniversary of their diplomatic relations. At this new historical starting point, we need to leverage the propelling role of the PPEM, strengthen overall and top-level planning, and inject vitality into the comprehensive strategic partnership between our two countries. We also need to synergise the South African dream and the Chinese dream and forge a closer community of shared future. To this end, I wish to make the following proposals:

First, we need to work together to bring our comprehensive strategic partnership to a new height through people-to-people exchange. Strategic mutual trust, business cooperation, and people-to-people exchange are the three pillars of China-South Africa relations. We need to step up people-to-people exchange to make China and South Africa future-oriented strategic partners with a high degree of mutual trust, friendly partners with mutual understanding and mutual learning, equal development partners



for win-win progress, and global partners with mutual support and close collaboration. This will give powerful impetus to the advancement of China-South Africa comprehensive strategic partnership.

Second, we need to work together to open up a new horizon for people-to-people exchange between China and South Africa. A long-term plan needs to be formulated under the framework of the PPEM, with the following efforts to be made:

- advance higher education, basic education, vocational training and other education cooperation, deepen exchange in language teaching, expand youth exchange in innovation, entrepreneurship and cultural fields, and strengthen practical skills training for women and human resources development;
- promote cultural exchanges through hosting cultural year, art festival, film festival, expo and other activities in each other's countries;
- deepen mutual learning in sports and promote experience-sharing in developing sports that we are strong at;
- conduct high-level joint research, build demonstration science parks and develop cooperation in innovation;
- share good practices in healthcare reform, jointly tackle communicable diseases and other public health challenges, and deliver a healthier life to our peoples;

- encourage programme-exchange, co-production and other forms of cooperation between media outlets, and support archive cooperation for joint research on the history of our two countries and our relations, with a view to deepening understanding between our two peoples;
- deepen think-tank cooperation, conduct non-governmental dialogues and academic discussions, and further exchange views on the "African shared values" proposed by the African Union, the Ubuntu philosophy of South Africa, and China's Belt and Road Initiative and its vision of a community of shared future for mankind.

Third, we need to work together on flagship initiatives for China-South Africa to deliver more tangible benefits to the two peoples. People-to-people exchange is essentially of the people, and by the people, and therefore, should be for the people. We need to focus on the grassroots, reach out to communities, schools and businesses, and establish a new pattern of people-to-people exchange with extensive government as well as non-governmental participation. We need to support exchanges between the local governments in various fields, strengthen friendship and cooperation between non-governmental groups and social organisations, and encourage more citizens to travel to the other's country to experience the charm of diverse cultures, so that ordinary

people will be involved in and share in the joy of people-to-people exchange.

Fourth, we need to work together to make people-to-people exchange between China and South Africa a fine example for exchange between the Chinese and African civilisations and cultural cooperation among developing countries. Our world is defined by diverse human civilisations, just like delicious soup made of different ingredients. Such diversity, rather than a source of conflict, should be an engine driving the progress of human civilisation. China and Africa are both major cradles of human civilisation that have made historic contribution to the progress of human civilisation. As culturally diverse and multi-ethnic countries, China and South Africa should all the more cherish the diversity of human civilisation and cultures, draw on each other's strengths, seek commonalities while shelving differences, and set up an inspiring model for exchange between the Chinese and African civilisations and cultural cooperation among developing countries.

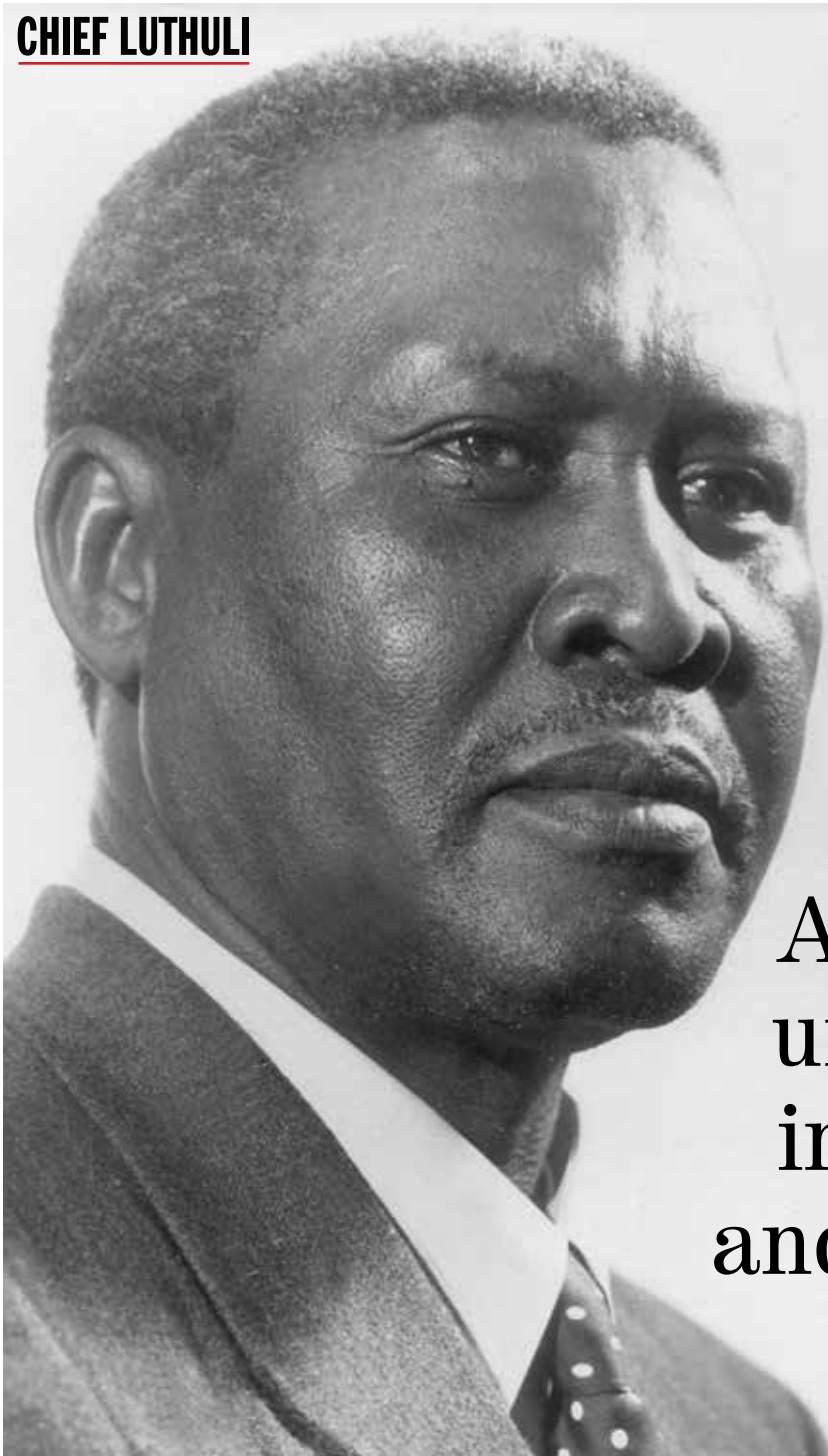
Ladies and Gentlemen,
Friends,

An African proverb says that "When spiders unite, they can tie down a lion", while the Chinese believe that, "When brothers are of the same mind, they can break metal". Both vividly tell a simple truth: only through win-win cooperation can we make big achievements that deliver long-term benefits. I am confident that as long as we work together and move forward with strong commitment, China-South Africa people-to-people exchange will embrace a brighter future, and play a role bigger than anyone's imagination. Efforts made by the Chinese and South Africans today will pay off tomorrow. And the rainbow of China-South Africa friendship and cooperation will surely become more glamorous.

Thank you. ■

The above speech was made by Liu Yandong, Vice Premier of the State Council of the People's Republic of China, at the First Meeting of China-South Africa High Level People-to-People Exchange Mechanism, in Pretoria, 24 April 2017.

CHIEF LUTHULI



A man who
understood
intellectual
and spiritual
strength

I am suggesting here, that after two decades of the most applauded constitution of our country, we may have entered a new period which necessitates its review.

By Mongane Wally Serote

The historic meeting of the Veterans and Stalwarts of the ANC and the ANC National Working Committee (ANC NWC) held in Johannesburg in November 2016 put us face to face, eye ball to eye ball, with Chief Albert Luthuli's brave and breathless spirituality. I am suggesting here, that if anything, it would be absolutely correct for both the veterans and the ANC NWC to say: let us emulate Chief Albert Luthuli. It was at a time when the ANC was in deep crisis, when the then President of the of the organisation, John Dube, was ill, in the forties, that Luthuli took a step forward away from local politics towards national politics. He defeated Selby Msimang in a by-election. He was backed by Natal when he defeated AWB Champion and became the Natal Provincial representative of the ANC. In 1952, together with OR Tambo, he supported the Defiance Campaign and many other popular boycotts like the Alexandra bus boycott, the potato boycott, and in the process became closely allied to leading unionists like JB Marks and Moses Kotane of the Communist Party. He was elected to become the President-General of the ANC in 1952.

He was one of the most outstanding leaders of the South African liberation struggle. His fifteen year tenure as President-General of the ANC was a period which laid a firm basis for various qualitative leaps of the liberation struggle. Through these leaps and bounds, the ANC was able to mobilise the masses across rural and urban areas; the spectre of tribalism was transformed to become the defining process for the spectrum of being African. During his tenure, he, together with other leaders of the alliance, ensured that being African eventually crossed race and cultural divides, and offered all citizens of this country called South Africa a possibility for the formulation of the Freedom Charter.

When there was an attempt by the regime to suppress the will of the people through violent force, oppression and the exploitation of people by people, ordinary people, South Africans, within the non-racial context, led by the ANC at whose helm

was Luthuli, mounted the Defiance Campaign to oppose the enforcement of the apartheid laws and system. It is this defiance campaign, which mobilised a large number of people, men and women, across the colour line, to be prepared to go to jail, to face torture, to withstand detention without trial, face exile, go underground and to pick up arms against the violent actions of the regime.

The regime was hell-bent on defending and enforcing the apartheid system. In other words, all of these efforts, which translated to conviction, commitment and sacrifices, prepared citizens to be ready to even pay the ultimate price for freedom. After the

“South Africa is part of the African continent, and therefore it must forever be wrenched from that past, where it was the colonial outpost of the west, to become part and parcel of the African Renaissance context.”

passing of Chief Luthuli, decades later, in May 1996, a most unprecedented event happened, not only in South Africa, but the world over, as we all witnessed. This was the birth to one of the most progressive Constitutions in the world, born of struggle and sacrifice, a precious gift to our country and people, but also to humanity. Who was this man whose collective leadership laid the basis for this unprecedented gift, from the struggle, to the struggling masses?

Chief Albert Luthuli was born in the then Rhodesia in 1898. He was sent from Bulawayo to live with his Malome in South Africa. It is Bantu culture for a child to be nurtured in the context of the so called extended family, especially by a Malome, a male mother (maternal uncle) or a Rakgadi, a female father

(paternal aunt), to the child. Instead of talking about an extended family, I would like to say, the African Primary Institution (API) whose constitution is the philosophy and institution whose basis is: *Motho ke Motho ka Batho/Umuntu ngu Munto nga Bantu*. In this context, the child will be brought up by many people, men and women, who are cultured in this institution of Botho/Ubuntu. From a tender age, the child will learn to negotiate relations, different characters and demands or offerings, and to live collectively. These institutions prepare the child, a man or woman later, through a myriad of other institutions: example Koma (initiation), Bongaka, (holistic African healing systems) Dikgosi (African rulers). Luthuli was brought up within this context. He later became an Inkosi within this context. He was to live for 17 years within this context hair to hair with his people.

He founded his being an African in Christianity, and Christianity found African spirituality through him – the two being married into one. Both contexts are still being lived in without contradiction by millions of Bantu South Africans, although it is most fragile now. It was most abused by the colonial and apartheid systems. Therefore, this marriage is navigated with great skill by the people. It is so, because its cultural context, which has to be interpreted from a Bantu and African context, may not be so interpreted in the context of western values and culture. There are conflicts and contradictions within it. Botho/Ubuntu, as a philosophy and institution, is, through Chief Luthuli, articulated as not being dissimilar to the Christian institution and philosophy. He became a lay preacher of the Methodist Church. He went for a higher teacher's training at Adams College. There he focused on his studies and he said: it was a world of its own “one in which we were too busy with our profession to pay more than passing attention to what happened elsewhere...”.

That “elsewhere” soon caught up with him, and stared him in the eye. When he was 30 years old, he joined the Natal Teachers' Union. He soon organised boycotts, he negotiated with white authorities. He became

the secretary and supervisor of the Adam's College Football team called the Shooting Stars. Like the Stars which claim the sky as their domain, Luthuli was able to spread the football idea, which educates, entertains and disciplines and encourages competition, throughout Natal and later throughout South Africa. It was, as the English saying goes: a moment when he cut his teeth in politics. It was also around this time that he spoke of a 'Muscular Mind', meaning, a healthy mind must be in a healthy body.

I dare to say that Chief Albert Luthuli – his upbringing, his being handed over to be brought up by his uMalome, the village context in which he was nurtured, and eventually his having to accept to be Inkosi at Groutville in 1935 – must assist us to ask the question: how did his primary nurturing and training, and later experiences, as Inkosi for 17 years, impact on his being, his experiences and later in his being a national leader of the oppressed?

All Bantu languages have formulated the philosophy, and created the institution which we call: Botho/Ubuntu. In isiXhosa or in Setswana, there is a concept of Udadu'bao/Rakgadi and uMalume/Malome respectively. Both are concepts and institutions which are similar. UMalume is a bearer of traditions, culture, customs, heritage, protocols and procedures within what I call the African Primary Institution (API). So also, is Rakgadi. Both concepts transform these individuals to become institutions, bearers and bedrocks of the API – male and female. They buttress the API, which is the foundation and base of communities. The life and times of Chief Albert Luthuli make demands on African intellectuals. They ask us: if being an intellectual means the instinct and training to study and to organise knowledge and to use that organised knowledge to further gather more knowledge, and to transform that knowledge and apply it; consciously and deliberately to seek to innovate it with the objective of breaking barriers and creating possibilities for the improvement of life and the further understanding of the universe as our environment; how have we done so,

with African knowledge as African intellectuals?

When, "in the 1980s pressure mounted on the ANC to put forward concrete proposals for a post apartheid constitutional order" (Kader Asmal) how was the "post apartheid" defined? Was it defined in African or Western terms? This question must be asked because South Africa is not a western country. It is an African country. African must mean that South Africa is part of the African continent, and therefore it must forever be wrenched from that past, where it was the colonial outpost of the west, to become part and parcel of the African Renaissance context. "Post apartheid" must also mean that the context of being African contradicts not only the colonial or apartheid interpretation of Africa, but

“A great attempt was exercised to denude, but completely, anything of the cultural context of the beasts of labour, which would have defined them with a possibility that they were human.”

that while on the one hand it must mean the life experiences of those who were oppressed by the system of apartheid, on the other hand, attention must also be paid to the fact that there was a life for this black majority, before colonialism and before the apartheid system. And therefore that the question must then be asked: what were the constitutional references of that life – before a people were alienated from who they were?

Of course, the devil here is in the detail within this context. How have the parts of the context been understood to become a collective which creates the Bantu and black context which must be a contribution to the diverseness of our Nation? If the primary context is the African Primary Institution, this by way of example, what is the reference

used to constitutionalise the myriad formations of the API, communities emanating from it and the other myriad of institutions around it?

I raise this issue in this manner for a reason. The reason is, even from a lay person's point of view: what is Roman Dutch law? Could it have been a Bantu South African law? Could it have posed the question: what is a Bantu in South Africa? Could it have been, as a philosophy emanating from an institution, part of which is the API? How does South Africa become a context of the Bantu, but also, how does the Bantu become the context of South Africa in the context of the non-racial African context?

This is not to undermine the current constitution of our country, but it is to ask how is it informed by the life experiences, knowledge, culture, heritage, protocols and procedures which are Bantu and non-racial African informed? The issue here is how is a Bantu African within the cultural diverse context of being South African defined? Could it be that, if this question is not answered, there is a possibility that Bantu Africans live a schizophrenic life? If an individual within a Bantu African culture, is a collective, and can be of either gender, does this define the experience of being Bantu as a subculture, or is Bantu culture a culture? Must this experience be ignored by the constitution and will those who have and still do experience it ignore it as a culture but live it as a subculture? I come to this detail to illustrate, from a lay person's point of view that the possibility exists, that Bantu South Africans may not feel an obligation to the constitution. That is possible, even as it not only protects their rights, but also gives expression and practice to their rights.

I am asking the question how was this institution – the API – founded, and what other institutions buttressed it? But also what is its current status as it was targeted by both the colonial and apartheid systems? Also, as it has shown immense resilience against the greatest odds, in its current state, can it be innovated to carry its contents and bestow its qualities of life in the 21st century, which is challenged by a need to create liveable conditions for all

forms of life, even as the constitution defends their rights, to be so bound by it.

A research which is currently at the initial stages and process of being conducted on the African Primary Institution, by an NPO called iARi, and funded by both the Department of Arts and Culture (DAC) and the Department of Traditional Affairs (DTA) has yielded, from 3 provinces, namely, Limpopo, Gauteng and Mpumalanga, what I call a complex reality for the Bantu's understanding of our constitution.

That 'reality' is expressed in terms which state that the constitution has empowered English and Afrikaner South Africans to own land which they stole from blacks and to retain it; that while English and Afrikaner South Africans use the constitution to strengthen white supremacy in a non-racial defined context, through the economic power they gained through the apartheid system, Bantu South Africans are becoming victims of the constitution and therefore have a tendency to reject it. If culture is politics, and politics is culture and can be the art of perceptions, does this augur well for the country? What happened? What is it which needs to be done to bring the Bantu Africans close to the constitution and the constitution close to the them? I state categorically, that the constitution of our country is birthed by the struggle for freedom in our country; thus it does state that:

1. There is a common South African citizenship
2. All citizens are-
 - a. Equally entitled to the rights, privileges and benefits of citizenship
 - b. Equally subject to the duties and responsibilities of citizenship
3. National legislation must provide for the acquisition, loss and restoration of citizenship.

How is a common citizenship defined in the context of diversity, within which the majority experienced what Amilcar Cabral defines as having been "close to genocide", where that possibility was only curtailed because those who were to be genocided so to speak, were then transformed to

become the beasts of labour? What that means is that a great attempt was exercised to denude, but completely, anything of the cultural context of the beasts of labour, which would have defined them with a possibility that they were human. If it is so, how was that culture restored by the constitution?

Let me pursue this matter. If a people have been denuded of all human rights, and have been rendered beasts of labour, because everything which is them has not only been denied, but everything possible was done, short of decimating them, to ensure that they have no reference point about themselves but that which the oppressor and exploiter designates as them – if this has happened over three centuries, how is it possible that twenty years into their freedom, which was gained through utter sacrifice including through paying the ultimate

“We must begin with a strong API which thrives within the diverse context of our nation anchored on both, our export to the world, as a continent.”

price – death – that we can declare, without it being an extremely cruel mockery, that: All Citizens are “equally entitled to the rights, privileges and benefits of citizenship” and that they are “equally subject to the duties and responsibilities of citizenship”?

Where do these claims begin and how are they realised if who they have been before their cultural demise was achieved, has not been considered as factors which must determine whether they are citizens or not? What should have formalised its being mandatory, so that whatever happens, it is addressed; so that from a non-racial reference, systems are rolled out to create one Nation – a South African Nation – defined by its diversity? If in fact, there are no material systems put in place through non-racial activities, which express non-racialism; when who they

became by escalating who they were before being colonised, by engaging in protracted struggle, sacrifice and living the slogan: “Freedom or Death” is not practically expressed so that “National legislation must provide for the acquisition, loss and restoration of citizenship”?

18 years ago, President Mbeki put on the National agenda the agenda item that: there exists two nations in one state in our country: one black one white – and the late president, Nelson Mandela, had, in the early nineties, put on the national agenda, the issue of the Reconstruction and Development Programme of the Soul of the South African Nation. Both these postulations depend on material conditions for their expression and their becoming a reality. One, the former, can be measured by how in its expression it transforms the economic quality of the life of the people, especially of the oppressed; and the latter contributes to transform the quality base of the diverseness of the nation by ensuring National cohesion, and letting emerge a non-racial, non-sexist society; and both, if, in my view were postulations empowered by tenants of the constitution which translate into National legislation would have contributed to a fundamental change in the South African society and Nation.

What killed the discourse which should have emerged from the agenda set by Mbeki? How is it that the RDP of the soul of the country, even as it was stated by a person of the stature of Mandela, shrivelled and died? Can it be that it is because the issues have no context within the constitution? Could it be that the constitution was founded within the context where the justice which was meted out through the constitution neglected the fact that Bantu South Africans entered the freedom arena carrying baggage of no fruit from freedom? And these Bantu South Africans have not been able, through the constitution, bill of rights or no bill of rights, to determine how the negative history they carried from a past of oppression and exploitation would be permanently and as soon as possible eliminated?

That period emerged when everything then came to a halt

and became an issue for distortion, denial and destruction; as also an era dawned immediately afterwards, when whatever they were and did was a total focus on how to undo their long and unending present where they had to undo the intricate knots which bound them by being dehumanised, to servitude and being exploited and being held almost permanently hostage through state power and violence; as also, one day freedom was an event beginning to be a process, which had to be studied and understood – are these not issues of the constitution?

I am suggesting here, that after two decades of the most applauded constitution of our country, we may have entered a new period which necessitates its review. The objective must be to ensure that equality has a material base, as also the basis for that fundamental base is to further enrich the letter and spirit of the constitution by empowering the Nation not only to specifically create material advantage for the majority who were disadvantaged, but to also specifically address the RDP of the soul of the Bantu South Africans whose context and content will complete the diverse expression of the South African Nation.

There is no diversity, if the RDP of the Soul is not part and parcel of the diverseness of South Africa. But also, more important, there is no diversity if that diversity is not material based. Otherwise all other voices of the diversity are part of the expression of the people and country, but that of the Bantu South African is muted. The nation can enter this space, from its diversity and, empower the constitution to emancipate the Bantu African voice. This would enable and empower the nation to engage and seek expression and resolve the issues of poverty, unemployment, discrimination, and the expression of the Bantu South African voice. What are the values, traditions, customs, culture, institutions which must express this emancipation, which were trampled upon, marginalised and in certain cases, an attempt made to destroy them? How, if this is known, must these be factored in tenants of the constitution so that the possibility of their being real and lived is emancipated?

I am also asking something else. Should it be a constitutional requirement, or amendment, which must empower the nation to roll out processes which destroy the two Nation state, and which let the expression of the RDP of the soul of the Bantu South African find expression? What is the container which must be created in the nation, which will allow for the content which must express in full, the missing part of our diverseness? In other words, is that container the constitution? How must the processes, programmes, institutions and projects which must articulate the Bantu South African part of the diverseness of our people and country be formulated

“The generation of Thabo Mbeki and Jacob Zuma, together with the elders and youth of the country, must ensure that when they hand over the ANC to the next generation, renewed, anchored on the traditions, values, customs and culture which were forged in the struggle for freedom, it must be a renewed ANC, alive in the 21st century.”

as policy, legislated for, empowered both intellectually and materially? Here is where the elders and the youth must #.

The last time when I was at the Luthuli Museum, for a symposium, I left this place with a heavy heart. I had asked the question: Do we as a Nation, know how the President-General of the ANC, the late Albert Luthuli, who was one of the most outstanding leaders of the liberation struggle was killed by a train? Besides the many speculations which came forth, no one knew how it exactly happened. We know that he lived here, most of his life. We must know from that, that he was very

familiar with this terrain and the train – when it passed, where it passed, at what speed, how long it was and so on. He was the son of this place where he became one of the leaders who forged and let emerge a non-racial context. This man who, we as a nation, do not know how a train killed him in his home terrain received a Nobel Peace Prize in 1960. The world knew who he was.

It is Albert Luthuli who declared that “the road to freedom is via the cross”. Has this mighty burden, especially the political, heritage, cultural, economic, RDP of the Soul – disappeared since when the constitution of the land became the supreme law of our country in 1996 – in other words, since 20 years ago?

If not, and this is my way of going back to where I began, the veterans and stalwarts, together with the constitutional structures of the ANC, and also through the constitution of the country, must now put these matters high on the agenda of our Nation and country. We must put those items under stringent scrutiny. The veterans and stalwarts must now create the processes and programmes which must ensure that *# the cross must fall!*

It is an obligation which the generation of Thabo Mbeki and Jacob Zuma, together with the elders and youth of the country, must ensure that when they hand over the ANC to the next generation, renewed, anchored on the traditions, values, customs and culture which were forged in the struggle for freedom, it must be a renewed ANC, alive in the 21st century, part and parcel with progressive movements on the continent and the world. They must also ensure that South Africa is the motive force for the renewal of the African Continent, and that the continent will also have declared that *# the burden of slave mentality must fall*. Given the track record of the world and our continent – as the sun sets in the west – using the gains of our struggle for freedom, when history repeats itself within very different contexts, we must begin with a strong API which thrives within the diverse context of our nation anchored on both, our export to the world, as a continent. ■

Leadership, introspection, renewal and the cracked mirror

This article will only deal with six known and pronounced weaknesses that could have contributed to the ANC shedding votes. All these weaknesses can be directly attributed to leadership failures, and to overcome them requires urgent and decisive action to renew the organisation.

By Zamani Saul

The decline in electoral support for the African National Congress (ANC) in the recent local government elections incited many to predict its imminent demise. The results represent discontentment and rejection of the ANC by a significant number of voters, predominantly in urban areas. The decline is not a new phenomenon as it started with the 2009 elections. It is, however, more startling to note that the decline is not only in the aggregate percentage but also in terms of the actual number of voters.

This was a rude awakening for the ANC. Things could have been worse. Despite all the organisational challenges in the period preceding the elections, there were still many voters whose loyalty to the ANC remained undeterred. Taking a positive view, the decline is heralding a critical historical juncture the ANC has been waiting for to genuinely embark on organisational renewal.

Despite the erosion of its electoral base, the ANC remains the governing party and by far the most significant political force in South Africa, unlike

the misfortunes suffered by sister organisations, such as, the Sandinista National Liberation Front (Sandinistas) of Nicaragua, the Indian Congress Party, and the United National Independence Party (UNIP) of Zambia. All these parties were voted out of power as a result of organisational paralysis and rot. Similar to the ANC, the signs of paralysis in these parties started showing long before the desolate electoral defeats.

Following its poor electoral performance, the ANC committed to a process of deep introspection. Drawing

from the experiences of the Sandinistas, the Indian Congress and UNIP, this article seeks to demonstrate that introspection does not automatically result in organisational renewal, but that the quality of leadership will inevitably determine the future prospects of the party.

The different experiences of the Sandinistas, the Indian Congress and UNIP demonstrate that undertaking introspection without a revolutionary leadership is tantamount to viewing the challenges confronting the organisation in a cracked mirror, seeing multiple and distorted images of the same object. Viewing the organisational challenges confronting the ANC in a cracked mirror will inevitably result in a false understanding.

The central argument in this article is that the revolutionary leadership with the capability of theoretical firmness and action is necessary for organisational renewal, because the renewal of the party cannot be built on the quicksand of ideological confusion. Furthermore, such revolutionary leadership must have the capacity to honestly identify political tendencies that are detrimental to the movement, and provide fundamental solutions.

Sandinistas, the Indian Congress and UNIP

The electoral defeat of the Sandinistas in 1990 became a topic of harsh dispute within the party. These disputes threatened to destroy the party as new ideological divisions were opened that presented great difficulties for internal cohesion. Another difficulty for the Sandinistas was the internal organisational structure of the party that was enmeshed with the administrative structure of the state, which meant that the loss of government meant the loss of party structures and dispersal of membership when thousands lost their jobs. As a result, the strength of the Sandinistas dissipated from several thousands of members to a few hundred after the elections.

To understand the cause of the defeat, the Sandinistas embarked on a deep and extensive introspection, which involved engagement with all party structures and broadly with progressive social formations. These

engagements culminated in a national consultative forum of diverse interest groups to chart the way forward. Such introspection marked the beginning of a process to reconstitute the party's traditional political line. This led to a programme for modernisation of the party, but not at the expense of its revolutionary social principles.

The modernisation was meant to make the Sandinistas a 'party of today' and resulted in radical changes to the leadership structures of the organisation, the process of acquiring membership, and the overall ideological orientation of the party. This arduous process ultimately improved their performance in the elections of 2006, which increased to 62% in the 2015 elections.

Introspection by the Sandinistas was followed by deep, bold and far-reaching corrective action to rescue the movement from ideological degeneration, ineffective leadership and debilitating internal battles. Unlike many other liberation movements, the audacity and political will of the Sandinistas' leadership to modernise the party through re-engineering its structures, cleaning up its image and reconstituting its ideological outlook enabled the party to gradually regain lost ground.

In direct contrast, the leadership of the Indian Congress responded differently when the party suffered its first severe electoral defeat in 1979 after three decades in power. During the post-election introspection, they correctly identified two factors that adversely impacted on their performance: corruption and mutating factions that led to internal instability. There was little political will from the party leadership to decisively tackle these challenges head on. Instead the party became more polarised as factions became institutionalised, resulting in a steep surge in the levels of corruption within its ranks and in states where they governed.

The leadership failed to modernise the party to be 'a party of today' as the party retained the same organisational structures designed in 1918 and 1920 by Mahatma Gandhi. These archaic structures inhibited the capacity of the party to expand and boldly challenge

factions and corruption within its ranks. With the 2014 elections, the Indian Congress had its poorest post-independence elections performance, winning only 44 seats of the 543-member house. The Indian Congress was caged in its legacy of leading the liberation struggle in India, and as a result failed to transform itself into a 'party of today'.

Both the Sandinistas and the Indian Congress engaged in a protracted process of deep introspection after their electoral defeats. However, the distinguishing factor for renewal or decline of these parties was the quality of leadership, and whether a party had a leadership collective with the capacity to drive a programme of renewal. The Sandinistas had decisive and bold leadership that steered the party to resurgence, whereas the Indian Congress had weak leadership that was blinded by corrupt factions to the problems confronting the Party.

UNIP presents a similar case to that of the Indian Congress. The 1991 elections in Zambia led to the fall of UNIP, a party that had led the country to independence. After the elections, the UNIP executive met in a three-day meeting to introspect, followed by extensive engagements with party structures to establish the cause of the defeat. The party identified two reasons that contributed to its poor performance: weak leadership and internal tensions. In the subsequent conference, informed by the outcomes of the introspection, UNIP adopted a political programme aimed at modernising the party.

Central aspects of the programme were not implemented as jostling for power intensified and continued unabated. The insidious internal strife, which was spearheaded by senior leaders of the party, weakened the capacity of the leadership collective to rescue the party. Today, UNIP, like the Indian Congress, is a meagre shadow of its former self.

African National Congress

In South African politics, any political party of consequence must have the backing of the metropolitan municipalities. Out of the eight metros in the country, the ANC secured a

reduced majority in three: Mangaung, eThekweni and Buffalo City, and lost three metros to a coalition of opposition parties: Tshwane, Nelson Mandela Bay and Johannesburg. Losing three metros in one election is tantamount to a massive blow as all three metros are historic strongholds of the ANC with a long tradition of congress politics.

The national share of the ANC vote was drastically sliced by 8% from 62% to 54%. Sliding far below 60% is a major psychological defeat for the ANC and has served to energise the opposition parties towards the 2019 general election. In response to these shocking results, in unison ANC leaders called for deep introspection.

After the four-day National Executive Committee (NEC) introspection meeting, a statement was issued in which the NEC accepted collective blame for the poor electoral performance. The statement further attributed the poor performance to a wide range of issues, among them the internal battles and the perception that the ANC is soft on corruption. The statement further highlights fifteen key and immediate tasks for recovery. However, the fractious nature of the NEC invoked doubts in both the ANC members and supporters with regard to the sincerity of the NEC in accepting collective blame. The pronounced divisions in the NEC projected it as being incapable of acting as a political collective that could collectively share blame.

Hardly two weeks from the four-day NEC introspection, those who doubted the capacity of the NEC to shoulder collective blame were vindicated. NEC members were at cross-purposes about the actual meaning of the statement, giving conflicting accounts. Worse, the saga of the imminent arrest of the Minister of Finance, Pravin Gordhan, and the early conference proposal by the ANC Youth League, drowned the statement. In the process leadership became distracted and derailed, with an undue focus on side issues. The statement that was meant to inspire confidence in the ANC and galvanise South Africans behind the programme to rescue the movement was all but redundant. This severely compromised the capacity of the ANC as a self-

correcting organisation.

Furthermore, the NEC statement articulates that the ANC is a 'listening and learning organisation'. If the #occupyluthulihouse organisers were ANC members or supporters, then the manner in which the ANC approached the matter contradicts the essence of a 'listening and learning organisation', unless the movement chooses to listen only to what it wants to hear. Introspection should be about the ANC opening up to diverse views. This suggests that the #occupyluthulihouse scenario should have been dealt with very differently.

The ANC should have used this

“The Sandinistas had decisive and bold leadership that steered the party to resurgence, whereas the Indian Congress had weak leadership that was blinded by corrupt factions to the problems confronting the Party.”

opportunity to explain its position to the protestors and to educate them on the ANC internal processes. The ANC is a mass based movement and within its ranks there will always be members who will be tempted at times to undermine the organisational protocol. The leadership needs to find a better way of providing the necessary leadership to these members. It was unfortunate during the initial contact that the ANC responded in a way that portrayed it as an organisation that has no explanation to make. The subsequent change in the approach to engage the group must be welcomed.

The weaknesses that the renewal should address

Any genuine process of introspection should be underpinned by an honest understanding of the challenges confronting the ANC. The ANC policy document on *Organisational Renewal*

mentions the notion of '20 years of curse'. This notion is derived from a generalisation that most liberation movements suffer significant losses of their grassroots support after 20 years in government. This is paradoxical, because liberation movements started with the people and they derived their sustenance from the people.

The significant decline in the electoral support of the ANC after 22 years in power requires a deeper analysis than a mere generalisation. Therefore the NEC must be commended for its commitment to undertake such an analysis. In the past 15 years, some weaknesses have been highlighted in many policy documents of the ANC as having a negative impact on its public standing.

This article will only deal with six known and pronounced weaknesses that could have contributed to the ANC shedding votes. All these weaknesses can be directly attributed to leadership failures, and to overcome them requires urgent and decisive action to renew the organisation. The six weaknesses are:

- **Firstly**, the fierce, money-driven and destructive internal battles for leadership positions. Globally, this is the number one enemy leading to the demise of liberation movements. This enemy is stronger than the combined strength of the opposition parties and the Western led regime-change agenda that is purveyed to many as seeking to destroy the ANC.

Put differently, whilst the opposition and the West poses serious threats to the development trajectory and the existence of the ANC, it is in fact the internal strife for spoils and positions that is a much bigger enemy that might lead to the demise of the party. The threats facing the ANC are more insidious and arise overwhelmingly from within.

The debilitating leadership contests are pursued as if the credit for the liberation struggle is infinite. In reality, it is characteristically exhausted in the minds of the population much sooner than leaders recognise. The moment arrives when the liberation movement is judged, not by its history and promises, but by what it presents itself to be through the collective and

individual conduct of its leaders. In most cases in the present moment the judgment derived from this was extremely harsh.

- **Secondly**, complacent arrogance that is partly the result of seemingly unassailable electoral support. The ANC fell into the trap of political arrogance, where some leaders thought that they alone know what is good for the broader society.

Political arrogance contributed to incoherent responses and poor management of challenges confronting the ANC. Among these are the disastrous and incoherent responses to the Gupta landing at Waterkloof Air Force Base, the e-tolls, the non-security upgrades at the President's private residence, the Marikana shooting, the allegations of state capture, the instability in the security cluster and the removal of former finance minister Nhlanhla Nene. This turned the tide of public opinion against the ANC and effectively bolstered the negative narrative. This narrative contributed to creating an impression of an incorrigibly corrupt government that is led by scoundrels who are beyond political redemption. The ANC failed to effectively counter this narrative, which was the main election sound-bite of the opposition parties.

- **Thirdly**, the failure to modernise and transform the party into a 'party of today'. Like most liberation movements, there is a fear of modernisation in the ANC. This is derived from a mistaken belief that modernisation will rob the movement of its greatest asset, which is the history of the liberation struggle. Any attempts, therefore, to modernise the party are viewed in a negative manner. The NEC discussion document towards the 2007 National Conference, titled *Organisation Re-engineering*, encapsulated the most radical and progressive proposals for the modernisation of the party.

The consequences of the fierce leadership contestation towards and during the 2007 conference rendered stillborn the proposals contained in the document as they were viewed with suspicion. The central objective of the document was to increase the capacity of the ANC to enforce discipline, build its cadre base and to effectively

increase its campaigning capacity. The document proposed, amongst others, the establishment of ANC branches in universities for academics, in big hospitals and on the factory floor for ordinary workers. This would have expanded the reach of the ANC beyond the traditional ward-based branch and would have strengthened its mobilisation capacity, particularly in industrial heartlands like the Gauteng Province. With active ANC branches of academics in university campuses the ANC would have had better organisational capacity to respond to the #feesmustfall campaign.

- **Fourthly**, the enthronement of a development trajectory that facilitates growth of capital whilst imposing severe limitations on government capacity to address apartheid inequalities. Today, 22 years into democracy, South Africa is one of the

“This narrative contributed to creating an impression of an incorrigibly corrupt government that is led by scoundrels who are beyond political redemption.”

world's most disparate countries in terms of income inequality. Generally, more inequitable than distribution of income is the correlation between race and distribution of ownership in South Africa. These contradictions generate resentment from the more than 40% of South Africans who are poor, and cause a great deal of impatience with the pace of social transformation. This explains why the country is in a permanent protest season.

That impatience is further exacerbated by the ANC's poor articulation of its policy positions, for example, what concretely constitutes the *Second Phase of the Transition*: things which ordinary people can touch and feel. Central to addressing the three socio-economic defects, which are unemployment, inequality and poverty, is the leverage the ANC

government has within the economy through State Owned Enterprises (SOE) like Eskom, Denel, SAA and others.

Unlike other developmental states, such as China, South Korea and Malaysia, the ANC government appears to be unable to strategically use the SOEs as a foothold in the economy to direct growth and investment in the country. Instead, the levels of chaos and mismanagement in the SOEs, accompanied by widely held perceptions of runaway corruption, subtract the much-needed credit due to the ANC. Most of the SOEs have become a fiscal burden instead of being catalytic tools for development.

- **Fifthly**, the ideological degeneration in the ANC. This places the ANC in a precarious position in which its supporters are mistrustful of its motives and its record and intentions are disputed. Ideological degeneration is due to the erosion of the capacity of leadership to engage in ideological work. Over the past few years the whole organisational apparatus was propelled into a defensive mode and very little work was done to forcefully present what the ANC stands for. This opened up an opportunity for the Democratic Alliance to appropriate Nelson Mandela's legacy and for the Economic Freedom Fighters to place greater claim on the Freedom Charter. The arrogance with which these two parties were able to do so was derived from the ANC's own weaknesses.

The erosion of the cadreship base in the ANC has further exacerbated ideological degeneration. Cadres are advanced elements at the frontline defence of any revolutionary movement. The current thin cadreship base exposes the ANC to all forms of negative tendencies. Between 2007 and 2012, membership of the ANC doubled from just above 630,000 to more than 1.2 million. There is, however, no systematic and sustainable programme for political training to strengthen the political understanding of the new members. To respond to the challenges of ideological degeneration, the 53rd National Conference in 2012 adopted a programme *A Decade of the Cadre*. Now, four years into the 'decade of the cadre', the situation appears

worse than when the resolution was adopted.

- **Sixthly**, is the contemporary realignment of the political landscape within the ANC that is characterised by the grouping of provinces into visible and arrogant factional blocs. These blocs subordinate and eclipse the work of the NEC and compromise the unitary character of the ANC. This weakens the NEC and compromises its position as the highest decision-making structure between conferences. NEC members are under pressure to support and protect provincially based factions, with the hope of re-election in the next conference. These politics of self-interest find traction in a polluted and divisive political environment characterised by the politics of survival of the fittest.

A possible way forward

Introspection alone is inadequate to address these weaknesses and to get the ANC on a path to recovery. As with the Sandinistas, introspection should serve as the platform from which a common understanding about the causes and the extent of the weaknesses is derived. Based on the outcomes of such introspection, the movement must develop a package of responses that are equal to the challenges. Implementation of these responses requires decisive, bold and uncompromised leadership.

As explained above, the distinguishing factor between the recovery of the Sandinistas and the accelerated decline of the Indian Congress was the quality of leadership or the lack thereof. It is clear, therefore, that the ANC has a choice: follow the path of the Sandinistas that requires radical reorientation of the organisation underpinned by strong leadership; or take the path of the Indian Congress that will result in accelerated decline.

The Indian Congress-path is the most undesirable but not unlikely, and would require that the ANC continues to gaze into the cracked mirror and provide cosmetic solutions to distorted problems, while indulging in self-adulation and self-delusion, comfortably caged within the legacy of a once-glorious movement. The Sandinistas-path would require a

revolutionary leadership collective that will replace the cracked mirror with an undamaged one to view the organisation, and with visible decisiveness confront the real problems to position the organisation on the recovery path.

At many critical points in ANC history, when the movement had to change course it did so successfully. Credit for this is due to the quality of leadership it had at those times. The first critical point was the state of the organisation when Zaccheus Richard Mahabane took over in 1937 as the President. Mahabane and James Calata, the then Secretary General, inherited an organisation in a state of complete paralysis. They commenced with a programme to lift the organisation from stagnation. Mahabane's strong

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and resolute leadership enabled him to build a semblance of unity in the NEC and the broader movement. This provided the much-needed platform for his successor, Alfred Batini Xuma, to transform the ANC into a more modern organisation.

The second critical moment was in 1969. As the decade after the banning of the ANC neared its end, there were serious tensions within the external mission that resulted in weaknesses in the organisational structure and style of work of the ANC. These weaknesses resulted in a paralysis and divisions between the leadership and the rank-and-file that required urgent correction. This resulted in the convening of the Morogoro Consultative Conference in April 1969.

Based on the report by the

Preparatory Committee, the conference undertook a process of deep introspection on the state of the organisation and adopted concrete responses for organisational renewal. These included the adoption of the *Strategy and Tactics* document to integrate all four pillars of struggle and the modernisation of leadership structure with the establishment of a Revolutionary Council (RC), led by Oliver Tambo with Yusuf Dadoo as his deputy. The RC supplemented the more compact NEC, reduced from 20 to 8 members. The Morogoro Conference was a watershed moment and the calibre of the leadership collective was equal to the task of renewal, thereby marking a critical turning point in the history of struggle in Africa.

Today, the Sandinistas-path for deep organisational renewal and re-engineering would first require certain urgent steps to be taken by the ANC, which are:

- **Firstly**, the NEC needs to visibly demonstrate its capacity to lead the organisation. The public spats amongst ANC leaders and the incoherent and conflicting messages need to stop. This creates the impression of an incoherent organisation that cannot be trusted. Lower structures must be held accountable and the NEC must assert its authority over these structures and avoid being consumed by provincial political blocs.

- **Secondly**, in strengthening this process of introspection, the ANC needs to build a broad consensus on the way forward among progressive forces in the country. The consensus should be a product of frank and meaningful engagement. Pioneering such engagements will enable the ANC to reassert its role as the leader of society since such introspection will be extended beyond the confines of ANC structures and members.

An introspection that is limited to ANC structures and members will be miserably inadequate to serve as the basis for renewal. An extensive process of engagement will create a platform for mass democratic formations and progressive civil society movements, which felt marginalised all the years, to reflect on the state of the organisation

and the way forward. The idea mooted by the SACP, as well as the Gauteng, Eastern Cape and recently ANC Northern Cape PEC Iekgotla to convene a broad National Consultative Conference or Forum is very attractive and deserves further interrogation. The idea of a Consultative Conference is informed by the understanding that the ANC is not exclusively for its members; rather, it is a collective living heritage of the people of South Africa and broadly Africa.

- **Thirdly**, there is an urgent need to earnestly embark on the review of the present organisational structures of the ANC. Central to such a review will be to establish whether the current ANC structures are fit for purpose. This will encapsulate an enquiry on whether the current structures are adequate to organise and respond to the needs of a diverse urban population. Most importantly, there is the question of whether an ANC branch has the capacity to effectively respond to modern forms of political engagement by young people and particularly young professionals. This group seems to be averse to the present forms of branch activism of BGMs, marked by continuing leadership battles fuelled by tenders and demands for deployment.

Implementation of conference decisions remains one of the biggest challenges confronting the ANC. The composition of the ANC leadership structures is not helpful in addressing this challenge. For example, the current NEC has 86 members, with more than 60 members without any clearly defined tasks, whom consequently the National Conference or the NEC cannot hold accountable. The ANC needs to consider the election of a smaller NEC in which at least half of the members are elected to execute certain tasks and must account to the NEC and the National Conference. The identification of the tasks will be informed by urgent challenges that the organisation must respond to. The task-based NEC members should constitute the National Working Committee (NWC). This would most likely strengthen the work of the NWC.

- **Fourthly**, there is a need to review the process of election of leadership. This review must be central

to the renewal programme. The ANC is no longer an illegal movement, and there are thus no compelling reasons to have the election of leadership shrouded in secrecy. The movement needs to develop mechanisms that allow for an open leadership contest that gives a stronger voice and participation to the branches. The constitutional requirement that branches should constitute 90% of an elective conference is a good starting point. There is a need to reinforce the 90% requirement through the introduction of approaches that protect branch mandates from being diluted by intermediate provincial or regional processes in leading up to the National Conferences.

- **Fifthly**, the ANC needs to resolutely fight corruption and strengthen party discipline to regain the confidence of the people. The campaign against corruption should be pitched at the same scale as the campaign against HIV/AIDS by actively mobilising communities and strengthening the capacity of the state to investigate and prosecute such cases.

The 3rd NGC took a resolution to strengthen the work of the Integrity Commission. Despite all the good intentions, the Integrity Commission has been rendered toothless and has become an unnecessary appendage treated with great suspicion. The manner in which the issue of the Western Cape Provincial Chairperson was and is still handled is the latest episode in a series of events that have weakened the Integrity Commission. As part of re-engineering of the ANC the Integrity Commission needs to be strengthened by making it a constitutional creature with clear powers.

The amendments to Rule 25 of the ANC Constitution, which sought to strengthen party discipline, failed because the disciplinary processes are highly technical and there is no full-time capacity. This causes undue delays in the processing of disciplinary matters as all members of the Disciplinary Committee and the Disciplinary Appeals Committee are challenged by the limited time available to them within their busy work schedules. This weakens party

discipline, as in most instances there are no consequences for transgressions. There is thus an urgent need to make provision for full-time capacity at both provincial and national level to enforce organisational discipline.

Conclusion

All national revolutions at some point or the other encounter subjective and objective challenges that result in serious setbacks. This is not unique to the ANC. This article demonstrates that after electoral setbacks the usual response by parties is to embark on a deep introspection to understand the causes. However, the diverse experiences of the Sandinistas, the Indian Congress and UNIP demonstrate that introspection alone is not enough for recovery, and that the right tools of analysis should be used to introspect, rather than a cracked mirror that will produce both imaginary and distorted problems.

After their electoral defeat the Sandinistas embarked on a deep introspection that was accompanied by bold and decisive leadership that steered the renewal process within the party. This enabled the party to regain the confidence of the people and ultimately recovered the lost ground. In direct contrast, the introspection by the Indian Congress and UNIP was futile due to weak leadership.

Furthermore, the Indian Congress and UNIP were trapped in their legacy of liberation struggle, wrongly believing that the legacy possesses infinite credits. The struggle legacy is dynamic, so people are not uncritical recipients thereof. The reflection of the people on the legacy is substantively explained by the present-day political and socio-economic realities.

Based on these experiences the article argues that to reverse the decline in the electoral support of the ANC, introspection for its own sake is not enough. For the introspection to give birth to organisational renewal it must be accompanied by a revolutionary leadership that is bold, uncompromised and acts with visible decisiveness. Without a leadership of this calibre, the much-needed renewal to recover the lost ground will remain a mirage. ■

AFRICA AND THE EUPHORIA OF DECOLONISATION

Morocco's continual illegal occupation of Western Sahara: The Great Stalemate



The deadlock is the result of Morocco's attempt to dictate the outcome of any referendum and reject any internationally supervised and organised referendum in the territory.

By Radhi S Bachir and Atabongwoung Gallous

Decolonisation in Africa

The supposedly literal historical end of the 'dark triad' in the colonial political and economic era (Machiavellianism, narcissism, and white psychopathy) is the prefix 'de' in 'decolonisation'. 'Colonisation' being the practice of exploration and discovery, conquer and subdue, divide and rule, that transcended into taking by force, 'give me else I kill you'. Decolonisation was the quest for freedom by native Africans to end all forms of such nefarious territorial domination and occupation of lands in the global south by European

power-settlers. The systemic coining of the phrase 'decolonisation' connotes the undoing of colonisation/colonialism, where a nation establishes and maintains its domination over dependent territories.

The term became popular even among cohorts of Eurocentric philosophy in the decades after World War II, when statehoods in the global south ventured into dismantling the colonial empires established prior to World War I. Decolonisation gained more support during this time as factions of Eurocentric propagandists realised that with decolonisation,

neocolonialism became possible. These factions supported the decolonisation of Africa in subtlety with an imperial design at heart. Rethinking new strategies to maintain continual metropole-satellite structures was the solemn onus of the slave masters. Neocolonial brotherhood came into the scene as a desideratum and transformed over time into political institutions such as France Afrique, the British Commonwealth states, Lusophony etc. The existence of puppets, colonial protégés, better slaves, choicest boy, made way in Africa. Kwame Nkrumah's analogy of bigotry described the eminent neocolonial bondage as 'physically the last and the most dangerous stage of colonialism'.

Fierce colonial and Neocolonial strongholds are the principal causes of the chaotic politics of Africa. All major military coup d'états in Africa attest to neocolonial bondage. Neocolonialism can bring a 'homogenous majority into heterogenous minorities', can raise a minute elite class against a disempowered and impoverished mass, can shape politics along ethnic chauvinism, thus being the major cause of self-hatred among Africans. It grants political victory to Africans without economic freedom.

Such is the case post the democratic birth of South Africa in 1994 when political apartheid ended but basic, urgent and badly needed solutions for economic integration, association and development were found wanting. And while experimental democratic transition was taking place in South Africa in 1994, 'ethnic cleansing' (genocide) was perpetrated in Rwanda the same year allegedly with French approval. The grip of colonial and neocolonial transgression is so powerful that the psyche of the colonised is tempered with, they forever appreciate the 'beauty of the neighbour's wife' – see how many of African bright petals die in the Mediterranean in the attempt to cross back to the plantations. The more they die, the more they die.

The advent of decolonisation politics in Africa was not benign. It came amidst reactions and counter reactions. The first wave of decolonisation was the rise of African nationalism and resistance

in the 1960s. It saw the emergence of dedicated liberation movements in Africa. This political shift represented the most significant political change or chaos. But bravery in the attempt of decolonisation lies in the quest for the emancipation of colonised peoples. Scholars such as Tejeda et al., argued that decolonisation contributes to social justice. This, if well paraphrased, denotes: interpret and mediate practices of self-determination.

In many African states before the advent of decolonisation, states were administered to serve the interest of European markets. Only one form of social contract between the colonials and the colonised – in the form of metropole-satellites – was permitted. The resources continually extracted from Africa were a catalyst to the increasing multiplier effects of households in Euro-North America. Whilst most parts of Africa became ‘empty monuments’.

One commendable certainty during decolonisation is the fact that the national liberation movements in Africa were very progressive. African leaders like Kwame Nkrumah in the Gold Coast (now Ghana), Jomo Kenyatta in Kenya, and Julius Nyerere in Tanganyika, for example, led the various independence movements in their countries. The adequate political pressure mounted against the colonialists was the revival that paved the way for independence in some British and French protectorates in West Africa. In many instances the struggle turned violent and nationals were decimated in thousands as in the case of Algeria. Every independence was achieved through a spirit of determination, collaborative efforts and the willingness to pay the price. Independence movements or former liberation movements in Ghana and Kenya for example, saw rioting and a high degree of violence. In Zimbabwe (formerly Southern Rhodesia), the white-led government broke away from Britain, resulting in fighting with African revolutionaries. Lusophone countries like Mozambique and Angola were involved in a bloody struggle against Portugal for their independence with heavy casualties (Africans being the overall victims). One interesting exception to colonial patterns was

Liberia. History records it was founded in the mid-nineteenth century by freed slaves who had arrived there straight from the plantations in the global north through the help of the American slave owning society.

In a nutshell, the process of decolonisation in Africa was brutal and violent, it was not for the faint-hearted.

The successors of colonialism, Western imperialism and globalisation, perpetuate those inequalities. But the decolonisation processes in Africa was never completed. In the 1970s most of the colonised countries in Africa got their independence; for example, Namibia and Mozambique, except for South Africa (1994), South Sudan

“The huge deposits of phosphates, gas, oil and uranium in Western Sahara have been very tempting to energy-starved Morocco as well as to large and ambitious oil companies. The Moroccan army, which was waiting on the borders of Western Sahara, entered the territory with the complicity of Spain, which evacuated its troops from the borders.”

(2011) but not Western Sahara. The Western Sahara remains the last colony in Africa.

Western Sahara before colonisation

Before the Spanish colonised the region now known as the Western Sahara in 1884, African negroids occupied that geographic space. They were the first inhabitants in the region. But as far back as 1000 BC, the Berber tribes had settled in most of northwest Africa (present day Western Sahara). The organic origins of the Berbers are

still unknown. The Berbers had many trade links with the Roman Empire and although the Romans eventually dominated North Africa, they did not have any direct effect on Western Sahara. Likewise, Western Sahara was not influenced by the conquests of the Vandals and the Byzantine forces that took over Northern Africa during the decline of the Roman Empire.

In 639 AD, the Arab invasion of North Africa took over the territories occupied by the Berbers, the Romans, and the Byzantine Empire. The Berbers of Western Sahara were converted and integrated into the Berber-Islamic dynasties in northwest Africa.

The trans-Saharan trade routes that linked Western Sahara to other parts of north Africa expanded because of Islamisation. Products such as gold, slaves, salt, textiles, food, glass, metals and animal products were in huge demand and were widely traded.

Trade was the reason for the increased wealth and power of different Berber tribes leading to the formation of Berber Islamic dynasties. Many Berbers after acquiring wealth, served as Islamic missionaries/invasers to spread Islam throughout Africa and Spain.

In the fourteenth century, the Maqil or Beni Hassan, an Arab group of immigrants, occupied the region of Western Sahara. The Arabic language progressively replaced the Berber lingua franca and during that time the Berber and Arab cultures were assimilated. Therefore, the modern-day population of the Western Sahara (Saharawi indigenes) is composed of descendants of black Africans, Berbers, and Arab immigrants.

Western Sahara under Spanish colonialism

The Spaniards arrived in the Western Sahara in 1884. And by 1934, Western Sahara became a Spanish province popularly known as Spanish Sahara. During the rise of African Nationalism in the 1960s, there was resistance by nomadic Saharans, or Sahrawis (the indigenes of Western Sahara) against the Spaniards. By 1965, the United Nations organisation had urged the decolonisation of all colonial states including Western Sahara. Meanwhile,

the strategic position of Morocco and the Western Sahara remained desirable locations for trade routes. The huge deposits of phosphates, gas, oil and uranium in Western Sahara have been very tempting to energy-starved Morocco as well as to large and ambitious oil companies.

The national liberation movement the Polisario Front was founded on May 10, 1973 as the result of the long resistance of the Sahrawi people against various forms of foreign occupation. Its successful battles against the Spanish army in the territory, coupled with its sudden increasing popular support, helped the young movement to rapidly gain worldwide credibility. Algeria, Libya and some African countries welcomed the Spanish decision on August 20, 1974 to organise a referendum in the territory under the auspices of the United Nations.

In 1974, to preempt the organisation of the referendum, Morocco appealed to the International Court of Justice (ICJ) to recognise its claims of sovereignty over Spanish Sahara. Mauritania later joined the hypocritical appeal. On October 16, the International Court of Justice, in its capacity as the principal legal instrument of the UN, handed down its Advisor opinion. The Court's conclusion was that the materials and information presented to it did not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus, the Court found no legal ties of such a nature as might affect the application of Resolution 1514 (XV) of the UN General Assembly in the decolonisation of Western Sahara and, affirmed the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.

This caused Morocco to mount pressure on Spain to surrender its occupation for Morocco's illegal invasion and occupation of the land in 1975. In a reaction to the Court's verdict, King Hassan of Morocco interpreted the decision in his favour and called for the organisation of a march "to occupy peacefully the territory", in which 350 000 persons took part. The Moroccan army, which

was waiting on the borders of Western Sahara, entered the territory with the complicity of Spain, which evacuated its troops from the borders.

On November 6, 1975, the UN Security Council, in Resolution 380 (1975) called on Morocco to put an end to the March and immediately withdraw from the territory.

In November 6, 1975, immediately after the decision of the ICJ, Moroccan nationals participated in a political colonialism popularly called 'the Green March' (by the Moroccans) and 'the Black March' (by the Sahrawis). In the Green March, King Hassan II of Morocco had urged 300,000 Moroccan citizens from mainland Morocco to relocate to Western Sahara and possess it in violation of the ICJ's legal position.

“The King had the permanent support of the Republic of France. France's network and military presence and intervention is paralleled with diplomatic activism, all of which was used to promote Morocco's admission.”

The Moroccan government later used the mass demonstration strategically to force Spain to hand over the disputed, autonomous semi-metropolitan Spanish Province of Western Sahara.

By November 1975, in the face of growing international pressure and fierce fighting by the newly formed Polisario Front (liberation movement of western Sahara), Spain relinquished what was then called Spanish Sahara into a new colonial government with the mandate of maintaining territorial colonialism and spreading neocolonialism backed by France.

Historical, national and global efforts to decolonise Western Sahara

In the early 70s, the Polisario

Front (the Sahrawi national liberation movement) grew in strength and support in fighting to end all forms of colonial occupation in the Western Sahara. It conducted guerrilla warfare in its armed struggle with the Moroccan Army from 1975 to 1991.

In 1991, a ceasefire was declared, and a United Nations peacekeeping mission, (the United Nations Missions for the Referendum in Western Sahara (MINURSO)), was established to bring an end to the conflict and a possible end to colonialism in Africa. Although the ceasefire was in place, subsequent attempts to completely eradicate colonialism have not been possible. Why?

The UN Security Council Resolution 1541 (2004) was unanimously adopted by the Security Council following its consideration of the April 23, 2004 report of the UN SG reiterating its commitment to help 'achieve a just, lasting and mutually acceptable political solution, which will provide for the self determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations'. However this resolution has not been implemented.

Now that the Kingdom of Morocco has accepted to sit with the Sahrawi Republic within the African Union (AU) one may think that the parties to the conflict are getting closer to settling their dispute peacefully. But on the contrary, conflicting signals are emerging from Moroccan officials relevant to a real political will to overcome their colonial schemes and accept the precepts and principles of decolonisation and democratic methods to resolve conflict.

On the one hand King Mohamed V of Morocco, who has little experience and tremendous centralised power, is seeking to correct the mistakes his father made on his 'empty chair approach' to the OAU and later the AU. However, his stand is very inconsistent. This 'empty chair' was a protest against the Organisation of African Unity because it had admitted the Sahrawi Republic after a few years of procedural debate. Delaying tactics by Morocco led to the postponement of the seating of the Sahrawi Republic

which happened only in 1984.

And when King Hassan decided to leave the 'Club', his top diplomatic adviser, Reda Guedira, declared in a meeting of the UN Security Council that 'Morocco has left the OAU because of the admission of the Sahrawi Republic.' Morocco, he said, 'will look forward to better days'. Nevertheless, Morocco was hoping to have a special status with the Arab League and the European Union. The Arab League was badly disorganised and suffered a deep division when Egypt under President Sadat decided to recognise the state of Israel. The Arab League without Egypt cannot survive, especially since its headquarters were in Cairo and its Secretary-General was almost all the time an Egyptian diplomat.

As to Europe, a more structured and legalistic institution complained to Morocco about the persistent violation of human rights, lack of democratic institutions and the illegal occupation of the Western Sahara, including the feet-dragging when it came to the implementation of the UN Settlement plan regarding the situation in Western Sahara. Morocco had to reverse its 'empty chair' diplomacy and open diplomatic representations and embassies in capitals where the Sahrawi embassies are active. The admission of Morocco to the African Union was possible after fulfilling the normal procedure of any country belonging to the continent; to signing and ratifying through its parliament the Constitutive Act of the African Union. That was not enough; many countries objected to its mechanical admission and raised the question of the decolonisation of the Sahrawi territory and the illegal occupation of a sister member state – the Sahrawi Republic.

On January 30, 2017, the conjunction of many factors helped Morocco to be seated in the 38th summit of the African Union in Addis Ababa. First, the King visited many pro-Sahrawi countries such as Tanzania, Zambia, Kenya, South Sudan, Nigeria, etc.... and promised that Morocco will respect the Charter and work for the peaceful resolution of the conflict in Western Sahara and will invest heavily in the economic development of the continent. Second, the King had the

permanent support of the Republic of France. France's network and military presence and intervention is paralleled with diplomatic activism, all of which was used to promote Morocco's admission. Within the African Union, the Kingdom is being seated few chairs away from the Sahrawi flag. Even though when invited to make a speech, King Mohamed VI had to delete many paragraphs related to the Western Sahara question. He was expected 'to pour more water in his wine' when facing the hard new reality.

The AU has taken positions as to the peaceful resolution of this issue and joined efforts with the UN to try to bring about a renewed mediation of the conflict. The AU Charter is clear in this regard. The Peace and Security

“The Peace and Security Council has taken up the issue and former President Joaquim Chissano of Mozambique has taken his pilgrimage baton during the UN Security Council debate on the issue and will work diligently to bring about a full respect of the AU Charter by the Kingdom of Morocco.”

Council has taken up the issue and former President Joaquim Chissano of Mozambique has taken his pilgrimage baton during the UN Security Council debate on the issue and will work diligently to bring about a full respect of the AU Charter by the Kingdom of Morocco. Friends of Morocco are also sending signals saying 'it is easier for us, friends of Morocco to convince Morocco to face the truth', once it is among its brethren in the AU.'

To minimise Morocco's isolation, King Mohammed VI has been travelling extensively from one capital to another in Africa to reconcile with his peers but at the same time he is committing mistakes that could be judged as

even worse by expelling the United Nations mission that was deployed to the Western Sahara to keep a badly needed ceasefire. This was the ceasefire that Morocco's Hassan II had striven for, given his army's defeat and the demand to organise a referendum.

Morocco is only afraid because the outcome is clearly and ineluctably a confirmation of the Sahrawi independence. On the other hand, at Gergarat, the Moroccan wall built in the heart of the Western Sahara, is used to unload tons of dissimulated cannabis into Africa. In the last few months, tension is running high; UN peacekeepers have been deployed to separate the two armies and prevent a spark that will unleash the resumption of the war. Yes, but the escalation is the result of Morocco's rejection of its commitment to a peaceful resolution and signing of many agreements negotiated officially with the Sahrawi side. It is the result of the refusal to receive the UN mediator, Christopher Ross, and stalling of the ongoing peaceful negotiations to which the Sahrawi side has always adhered and continues to welcome.

The deadlock is the result of Morocco's attempt to dictate the outcome of any referendum and reject any internationally supervised and organised referendum in the territory. The government of South Africa and the ruling party, the ANC, has consistently supported the anti-colonial struggle led by the Polisario Front. The African Union and the advanced position of the United Nations and the European community are very correct. The exercise of the right of self-determination by the people of Western Sahara remains the wise course for a peaceful resolution of this African dispute. Expansionist Morocco sat for over 6 long years with the Islamic Republic of Mauritania in the Organisation of African Unity without recognising its independence. Joint efforts from all African states and peoples should spare no effort to bring Morocco to its senses to end its anachronistic practices in its colonial occupation and exploitation of Western Sahara.

The great stalemate has to be ended. Western Sahara must be decolonised. ■

STATEHOOD IN THE ERA OF SECURITISATION

Morocco's accession to the African Union and its impact on Saharawi self-determination



At the heart of Morocco's renewed confidence are two major factors: perceived disillusionment from the international community with independence struggles; and the impact of the oil price on the PF's Algerian backing.

By Ebrahim Deen & Gwinyai Taruvinga

Morocco's accession to the African Union (AU) on 30 January 2017, an institution it left in 1984 when it was still the Organisation of African Unity (OAU), was the culmination of an extended process, which saw the monarch undertake numerous visits to francophone allies, concluding economic agreements, and upgrading ties with continental heavyweights such as Nigeria, South Africa and Kenya. A key cog in the country's accession strategy was its resolve to no longer make accession contingent on the de-recognition of the Saharawi Arab Democratic Republic (SADR). This resulted in the clear

majority voting for its membership at the recent AU summit, held the 30 and 31 January 2017.

At the heart of this reconfigured stance is the kingdom's belief that the current civil war in South Sudan has divided the independence drive amongst African states, that counter terrorism cooperation will ensure closer ties with the kingdom, and that the low oil price and leadership transition in Algeria will impair its support for the Polisario Front (PF), the main indigenous political front fighting for Saharawi independence. It thus believes that its 2007 autonomy plan will soon be recognised as an optimal

solution for the forty-one year long conflict, especially since foreign powers such as the US and France are already in favour of it. Morocco also sees sub-Saharan Africa as an increasingly important market for its exports, especially since growth in trade with Europe and the US has slowed down.

Although not explicit, Morocco's accession to the AU under this reconfigured stance will result in a dampening of support for SADR independence. Already twenty-eight states have formally advocated the SADR's suspension, and it is reliably reported that between three and five more states support this step. South Africa and Algeria will however continue to support the PF and SADR. However their influence will be limited in such an arena.

Autonomy for the territory within the Moroccan state in some form will thus likely be the eventual consequence. This will be complex and intractable, especially as the Moroccan Monarch continues to maintain most state powers, and because patronage networks, upon which the monarch relies, will have to be dismantled for this solution to be effective. In the short term we may however see a return to more active conflict, especially if the Kingdom expands its territorial annexation without due consultation and in partial agreement with Algeria, and because Algiers is likely to continue and even increase its support for the PF in future years.

History of the Saharawi struggle

Issues currently besetting Western Sahara, a sparsely populated desert region, are directly linked to the 1884 Berlin conference which divided the continent amongst European powers. The Spanish monarch was afforded the 100 000 square kilometre territory, known then as Spanish Sahara. At the time, Spain saw it as strategically important, allowing it to reinforce its control of the Canary Islands, and because of its already then well-developed fishing infrastructure. Control by the Spanish monarchy remained until UNGA resolution 1514 (1960), which advocated self-determination for former colonies in general, and by

1965 resolutions which focused more specifically on the Western Saharan territories, commencing with UNGA resolution 2072 (17 December 1965) requesting Spain to decolonise the territory. Between 1965 and 1973, 7 resolutions (both GA and SC) were passed regarding the status of Western Sahara, and by 1975, Spain prepared to relinquish control of the territory and announced its intention to institute a referendum.

However, at the time three contending actors sought the territory, Morocco, Mauritania, and the indigenous Saharawi, under the banner of the Polisario Front (PF, formed in 1973 in Mauritania). Morocco's Hassan II, feeling threatened that the referendum would result in Western Saharan independence, sought the International Court of Justice's arbitration in the matter. Morocco contends that colonial borders are incompatible with the kingdom's historical boundaries, which is believed to include the whole of Mauretania, Northern Mali, and parts of Algeria. It thus is unwilling to relinquish further territory.

In October 1975, the court ruled that although Saharawi tribes have historical links with the Moroccan Monarch, self-determination was incompatible with this claim, and that historical ties should have no bearing on the territory gaining independence. In November that year, around 350 000 Moroccans subsequently marched into the territory, in what most refer to as the 'green march', stymieing the Spanish referendum attempt. Spain thus pulled out in 1976, without holding a referendum, and deferring sovereignty to Morocco and Mauritania. The Saharawi Arab Democratic Republic (SADR) was subsequently declared on the 27 February 1976, following Spain's withdrawal, and currently maintains a government in exile from Tindouf. Mauritania renounced its territorial claims in 1979, redeploying its troops, and seeding most of the territory it controlled to Morocco.

Since then the PF and Morocco have engaged in a thus far intractable conflict. Algeria currently houses the PF's leadership, and has financially,

militarily and diplomatically supported the group in line with Algiers's historic stance on independence from colonialism, and because the country fears that seeding this territory to Morocco would pose a threat to its South Western border; the two countries briefly fought a border war in 1963.

The PF currently maintains control of around fifteen per cent of Saharawi territory, with Morocco controlling the rest. A large, 2700 Kilometre Berm wall, manned by over 100 000 soldiers, has been built by Morocco on territory it controls, to ensure and legitimise its annexation. The struggle between Morocco and the PF was originally a military one. However in recent years it has been carried out in international institutions such as the UN and AU, and most recently the European Court

“The disagreements between Morocco, the SADR, and Algeria culminated in the 2003 ‘peace plan for self-determination for the people of Western Sahara’, drafted in 2003 and supported by UNSC resolution 1429.”

of Justice. The two sides signed a settlement agreement in 1991, which envisaged the holding of a referendum on Saharawi self-determination, and endorsed the creation of the United Nations mission for the referendum on Western Sahara (MINURSO). Originally envisaged to be undertaken in 1992, the referendum has still not been instituted.

Both sides still disagree on issues surrounding voter eligibility. Morocco argues that all citizens with historical ties to the territory should be allowed to vote, including the hundreds of thousands of Moroccan citizens Rabat resettled into the territory following its annexation, while the PF argues that the voter roll should be constricted to the 1974 Spanish senses of the territory.

The UN, in 1999, had previously approved a list of eighty-six thousand citizens that would be eligible to vote, including those already resident in the area; Morocco objected, while the PF tacitly acquiesced. Further, the Moroccan monarch sought to stymie the process over the fact that independence was to be an option on the ballot. Morocco, up to now, seeks a confirmatory referendum, similar to electoral processes with only one option, and is only willing to allow autonomy. It thus left the OAU in 1984, following the admission of the Saharawi Arab Democratic Republic (SADR), and has continued to remain outside the organisation. Initially the OAU sought a referendum as per the 1981 Nairobi resolution, which Hassan II accepted. However, following Morocco's obduracy, the SADR was installed as a member at the sixty-ninth OAU council of ministers in 1982.

It is significant that the Kingdom, together with Somalia, were the only two states which voted against the 1963 OAU resolution protecting the integrity of colonial borders. The two believed that this would prevent them from further consolidating their territories, Somaliland in the case of Somalia, and Western Sahara according to Morocco.

The disagreements between Morocco, the SADR, and Algeria culminated in the 2003 ‘peace plan for self-determination for the people of Western Sahara’, drafted in 2003 and supported by UNSC resolution 1429. The plan advocated a four-year transitional period, in which the territory would be governed autonomously, following which a referendum would be held. Originally envisaged to force compliance amongst the main parties, subsequent UN resolutions weakened the enforcement and implementation capabilities. UNSC resolution 1495, while endorsing the plan, argued that it was in the spirit of cooperation, while SC resolution 1541 in 2004, weakened this further by advocating cooperation. By this point, Morocco had been fully ensconced in the Bush Administration's War on Terror and was seen as a key ally, thus decreasing the urge by the UNSC to formulate a new solution, and ensuring that the US's previous position of impartiality was altered

in favour of Morocco. The Secretary General's special envoy to the region, James Baker, subsequently resigned in 2004, and no new credible initiative by the council has been formulated. Around ten rounds of direct and indirect negotiations have resulted in little movement forward. Morocco has recently been emboldened, and following former Secretary General Ban Ki-Moon's alleged labelling of the territory as 'occupied' during a trip to refugee camps in Tindouf in March 2016, the kingdom had expelled around eighty personnel from MINURSO, severely impeding its monitoring capacity. Following UNSC resolution 2285, which criticised Morocco for the action, Rabat has subsequently allowed many back. However the mission is still not fully operational.

Recent events: the 2007 Autonomy plan

In 2006, the kingdom announced the revitalisation of the then dormant Royal Advisory Council on Saharan Affairs (CORCAS), and in 2007 launched an autonomy initiative for the territory. The initiative foresees limited judicial, legislative, and executive autonomy in return for control over defence, foreign affairs and religious affairs. Further, in step with this initiative the kingdom has invested much into the territories and announced its intention to invest a further one billion dollars in an attempt to integrate the territory into Morocco, as part of its 'advanced regionalisation initiative'. The initiative sees the territory divided into three 'southern' provinces, with very limited autonomy. At the heart of this move is Morocco's attempt to move the Saharawi issue from the realm of international politics to one of local negotiations. It now refuses to even recognise the whole territory as having special status under an autonomy plan, but sees it as the first step in its regionalisation process, which would enable the monarch to remain in control, yet provide the impression of decentralisation. For the Moroccan Monarch the situation has become one of survival. Consensus around the Saharawi crisis, originally manufactured, is now widespread. All political parties and most citizens

from across the spectrum support the monarch's stance, meaning that compromising would severely impede his legitimacy.

The monarch has thus also sought to expand its control of Saharawi territory, in 2015, it dispatched troops into the PF controlled region of Gueguerat, and now controls over eighty-five per cent of Western Sahara. As noted, it has been emboldened and has previously expelled MINURSO officials monitoring the situation, and successfully lobbied to omit human rights monitoring from being added as a component of MINURSO in 2015. In July 2016, the Kingdom announced its intention to join the African Union without preconditions, following which it formally submitted a request in September. The PF has threatened to recommence the armed struggle; student groupings have already issued declarations advocating the taking up of arms. However, thus far the situation remains peaceful yet tense.

At the heart of Morocco's renewed confidence are two major factors, perceived disillusionment from the international community with independence struggles and the impact of the oil price on the PF's Algerian backing. Rabat believes that the struggles in South Sudan have diluted the optimism that the continent as a whole had for independence struggles. No African state has gained independence since Eritrea in 1994, with South Sudan's 2011 recognition being an anomaly. Morocco assesses that many states will reconsider SADR recognition if African heavyweights and the AU accept the 2007 autonomy plan. As of 2016, over thirty of the around eighty-four states recognising Western Saharan independence globally have frozen or/and withdrawn SADR recognition, even though such a move does not comply with the 1933 Montevideo conventions on statehood recognition.

Furthermore, the kingdom believes that the increase in weapons proliferation and militancy in the Sahel, largely caused by the NATO-led overthrow of Muammar Gadhafi, will increase the tendency for states to favour their own stability over the right to self-determination of others.

Morocco has thus been actively engaging with states such as Mali and Mauritania after Gadhafi's ouster, and supported the French 2012-13 Mali intervention. The increasing influence of al-Qa'ida in the Islamic Maghreb (AQIM) in areas around Western Sahara and the group's recruitment of Saharawi youth convinced Rabat that its assessment of states' response was correct. Its position received a boost when it was elected to lead the Community of Saharan and Sahelian States' (CEN-Sad) executive committee in 2013.

Rabat likewise believes that the oil and liquefied natural gas (LNG) price drop has negatively affected Algeria to the extent that it would be unable to continue supporting Polisario at the same levels as previously. It also believes that Algeria's succession question will weaken its resolve. The over fifty per cent drop in the oil price between 2014 and 2015 placed immense pressure on Algiers, which sought loans and suspended subsidies. Algeria, however, argues that it remains committed to the Saharawi struggle, and that its economy will weather the oil price crisis.

Sub-Saharan Africa's economic opportunities and the need to re-engage

For Morocco, Sub-Saharan Africa represents a significant market for its industries. Although previously relying on Europe for over sixty per cent of its exports and for foreign direct investment, the 2008 financial crisis and subsequent increase in competitiveness of Eastern European states placed pressure on this export potential. Under Mohammed VI, the kingdom thus looked southwards, backed by Moroccan companies, which possess a competitive advantage in many industries such as banking, construction and electricity generation. Moroccan exports to sub-Saharan Africa have increased over tenfold from around 250 million dollars in 2000 to over three and a half billion in 2014, and foreign direct investment from Morocco to the rest of the continent doubled to around 500 million dollars in 2010 from 250 million just two years earlier. The continent remains third in

Morocco's foreign relations priorities, after Europe and the USA. Moreover, even though trade between the Kingdom and the rest of the continent has increased in recent years, it only comprises around five per cent of overall Moroccan trade.

Morocco, Western Sahara and the AU

With this change in approach, Morocco is also increasing its diplomatic influence and activities in multilateral organisations. Apart from its leadership role in CEN-SAD, it was elected to the UN Security Council in 2012 as a non-permanent member. As such, it successfully prevented the UN from extending its Western Sahara mandate to include human rights monitoring. Morocco also regards conflict resolution as an important component guiding its foreign policy, and it attempted to mediate between various parties following the failed coup in Guinea (2010), and acted as a mediator to smooth US relations with Mauritania after the 2008 coup there. Furthermore, the December 2015 agreement to form a unified Libyan government (LPA), which resulted in the Government of National Accord, was partly driven by Morocco, and signed in the Moroccan resort city of Skhirat.

The Kingdom was thus keen to restore its African Union seat. To this effect in September 2016, Mohammed VI formally submitted his request to accede to the AU. Morocco was subsequently admitted as a member in January 2017 with a clear majority. Key in influencing this decision was Mohammed VI's decision not to make the country's accession contingent on the SADR's de-recognition. This meant that an unprecedented thirty-nine out of fifty-four AU member states supported the move, with only nine voting against it. Significantly, continental heavyweights including South Africa voted not to instate the Kingdom.

Prior to this, Mohammed VI had been on a diplomatic offensive, shoring up support amongst allies in West African and especially Francophone states. Embassies in Rwanda, Tanzania, Kenya and Mozambique were open in 2016

alone, and multiple trade agreements in Rwanda and Tanzania were signed to further shore up support. Relations with countries recognising both the Kingdom and the SADR, such as Kenya and South Africa were upgraded, and air links, a key cog of Moroccan diplomacy, established. Mohammed VI now believes that advocating for SADR de-recognition would have a better chance from within the organisation. This is especially since being inside the AU allows Rabat to lobby against the efforts of Algeria and South Africa, and

“Only thirty-six votes are required for the SADR's suspension from the organisation, and already thirty-one have expressed their support for this move.”

utilise the support it receives from the aforementioned twenty-eight states to weaken the organisation's positions on the crisis. Mohammed VI has thus in recent times compared it to a person suffering from an infection, arguing that it would be more effectively treated from within the body.

Implications for SADR independence

Morocco's accession to the AU has dampened support for SADR from within the institution. Already in July 2016, prior to Mohammed VI's formal accession request, twenty-eight states formally requested that the organisation suspend the SADR. Security coordination with Morocco was explicitly stated in the letter as a reason informing the appeal. While the AU's Constitutive Act does not permit the de-recognition of a state, the act can be amended to allow for this, and there is a precedent in this regard. At the founding of the OAU in 1963, the Portuguese protectorate of Cabinda was recognised as the thirty-ninth African state still to be decolonised, and Angola the thirty-fifth. However, when Angola gained independence in 1975,

the OAU recognised the incorporation of Cabinda into Angola despite Cabindan opposition. Further, the current AU commission chair, Moussa Faki Mahamat, represents Chad, whose leader Idriss Deby Itno advocated Moroccan accession to the institution in its own time and on its own terms. South Africa and Algeria will continue to advocate for independence and self-determination for Saharawi citizens; the two countries vociferously opposed the Kingdom's recent accession. However these calls will be muffled by Morocco's economic influence and its support from regional and international powers. Only thirty-six votes are required for the SADR's suspension from the organisation, and already thirty-one have expressed their support for this move.

Autonomy in some form will thus likely be an eventuality, especially since the US and Spain now see the 2007 autonomy plan as credible. In addition, it is unlikely that the AU will remain assertive in its calls for self-determination with Mahamat at the helm. This is especially the case since the organisation is currently seeking more funding since the fall of Gadhafi, and because it endeavours to move away from its reliance on the European Union; Morocco's relatively secure economic position on the continent is thus seen as a key source of new funding.

The UN, already in the 1980s envisaged such an autonomy based solution; former Secretary General Perez de Cuellar, who initially conceptualised the settlement plan, later asserted that the referendum was merely a means of ensuring such a scenario. This is complicated, however, because autonomy necessitates democratic rule in the enclave, a fact that is notionally opposed to monarchical rule for the rest of the country. This is especially so since Morocco's Monarch has almost absolute powers. He chairs the supreme council of the judiciary, the national Security Council, and the council of ministers, and is the self-designated 'amir al-mu'minin' (leader of the faithful). The Monarch will thus retain his power to dissolve governmental institutions, inhibiting

checks and balances, and enabling him to influence the territory's domestic self-determination. Further, human rights protections will be especially difficult to implement, because the monarch will continue to remain at the helm of the country's judiciary. Mohammed VI's influence over judicial institutions means that even matters concerning the division of powers and responsibilities, which were to be adjudicated by the constitutional council and administrative courts as arisen, would be discredited and seen as prioritising the Moroccan state.

In addition, this democracy within autocracy solution will be incompatible with the rights provided to ordinary Moroccans, consequently leading to problems with implementation, and causing friction between citizens from Western Saharan territories and the rest of the country once these are perceived as benefiting Saharawi. Anna Khakee thus observes that it would be difficult for freedom of speech in the territory to be fully implemented when criticism of the monarch is not tolerated in the rest of the territory; the monarch will face difficulty in allowing the participation of communal Saharawi parties when the largely communal Al Adl Wal Ihsane group remains banned. This raises pertinent questions about the applicability of the solution in the current Moroccan political system and of the impact of the proposed reforms in engendering nation building.

In the short term, this may mean a return to active conflict, especially if Morocco continues to expand the territory it controls. This is particularly if institutions such as the AU and UN are not able to constrain Rabat's demands and if the PF begins to believe that armed struggle is the only means to ensure self-determination. Morocco and the PF may consider it more likely now that twenty-eight states formally requested that the AU suspend the SADR. Rabat thus intends to work through the institution to alter its constitutive act and realise this suspension. It believes that the aforementioned change in stance amongst many African states, seen by the twenty-eight state signed formal request, will enable this to be achieved swiftly.

For the moment, it is still improbable that the organisation will institute such a radical measure in the immediate term. The already vociferous opposition from South Africa and Algeria over Morocco's accession to the organisation without the monarch's recognition of the SADR will be heightened. Article 10 of the resolution adopted at the 28th head of states summit in Addis Ababa was very stringent in its calls for the UNGA to set a date for the referendum, and in its criticisms of Morocco's exploitation of Saharawi natural resources. Moreover, South Africa and Algeria are able to leverage similar interests to Morocco. Both countries have well developed security sectors, and in the case of Algeria, it is seen as a country with vast amounts of knowledge in countering militancy. Further, both have vast resources, liquefied natural gas in the instance of Algeria and financial and technical expertise in South Africa's favour. It is likely that these will be leveraged to ensure that countries, especially in Southern and Eastern regions of the continent vote against an SADR suspension. It is notable that the level of South African and Algerian opposition to Moroccan admission was tempered by the Kingdom's modification of its previous stance that accession was contingent on the SADR's suspension.

Further, continental heavyweights such as South Africa and Algeria will continue financially and diplomatically supporting the PF. This is especially the case with the PF's main supporter, Algeria. The current leadership transition will mean that Algiers will expand extra effort to support the PF since just as is the case with Morocco, the Algerian regime's legitimacy has increasingly become entangled with the Saharawi struggle. It is significant that in January and February 1976 Algerian and Moroccan troops directly clashed in Amgala in Western Sahara. An autonomy based solution will thus generate much opposition, unless the Moroccan political system is reformed and real autonomy for Western Saharans is provided, or until we see a real rapprochement between Morocco and Algeria.

Territorial division, which would

see Morocco remain in control of two thirds of the territory and relinquish control of the areas it received from Mauritania would be a reasonable compromise, especially since Algeria has previously expressed its support for such a measure during Baker's initial negotiations. The 'Solomon' solution seems like a workable way of addressing Algerian fears over Moroccan territorial expansion; the need by the PF to run an independent, contiguous state; and Morocco's desire to regain some of the territories it believes it lost due to colonialism. However, Rabat is currently experiencing little negative international consequences from its continued obstinacy and therefore is unlikely to alter its positions. ■

Bibliography

- "28 African Countries call on the Immediate Suspension of the SADR", Wired News, 20 July 2016.
- Ann Marie Wainscott, "Morocco's AU Bid Builds on Years of Strategic Diplomacy", IPI Global Observatory, 27 July 2016.
- Anna Khakee, "The Western Saharan autonomy proposal and political reform in Morocco", Norwegian Peacebuilding Resource Centre, June 2011.
- Anna Theofilopoulou, "The United Nations and Western Sahara: A never-ending Affair", United States Institute of Peace (Special Report 166), July 2006.
- Caroline Alexander and Salah Slimani, "Oil's Drop Puts Pressure on Algeria's Government", Bloomberg (USA), 7 February 2016.
- Claire Spencer, "Western Sahara: The Forgotten Conflict at Risk of Re-escalation", Chatham House, 16 May 2016.
- Conor Gaffey, "Western Sahara: What is the 40 year dispute all about?", News Week, 9 March 2016.
- Ebrahim Deen, "Moroccan Elections: Where process trumps result", Afro-Middle East Centre, 27 October 2016.
- Francois Conradie, "Op-Ed: Morocco, the SADR and the AU Commission chair (Special Report)", CNBC Africa, 10 January 2017.
- Habibulah Mohamed Lamin, "Threat of war emerges again in Western Sahara", Al-Arabiya English, 6 January 2017.
- Haim Malka, "Morocco's Rediscovery of Africa" Centre for Strategic and International Studies - Middle East Program, July 2013.
- Liesl Louw-Vaudran, "Morocco has AU aspirations", Mail & Guardian (South Africa), 26 April 2013.
- Leonhardt van Efferink, "Western Sahara – territorial dispute, self-determination and the UN", Exploring Geopolitics, 5 January 2015.
- Marina Ottaway, "Morocco: 'Advanced Decentralization' meets the Sahara Autonomy Initiative", Woodrow Wilson Centre, Viewpoints 27, May 2013.
- Ministry of Economy and Finance, Department of Financial Studies and Economic Forecasts, "A perspective on Morocco's relations with sub-Saharan African countries, October 2008".
- "Morocco Seeks African Union Reinstatement, Settlement of Unresolved Western Sahara Issue", AFK Insider, 15 January 2017.
- Samir Sobh, "Morocco seeks to boost Africa relations, investments", Al-Monitor, 8 June 2014.
- Terence McNamee, Greg Mills and J Peter Pham, "Morocco and the African Union: Prospects for re-engagement and progress on the Western Sahara", The Brentthurst Foundation, February 2013.
- "UN warns of Western Sahara war if peacekeeping mission ends", Reuters, 20 April 2016.
- VOA Africa, "Hit by Oil Price Drop, Algeria Turns to China for Funds", International Edition 2230, 17 January 2013.



The Deconstruction of the SASSA Debacle and Aftermaths of Non-Compliance of the Constitutional Duties by the Minister of Social Development

There is no basis under which the Minister can escape personal liability of the cost of this application and as such she should pay from her personal pocket.

By Gaopalelwe Lesley Mathiba

This article discusses the meticulous judgment handed down by the Constitutional Court on 17 March 2017 in the constitutional quandary in *Black Sash Trust v Minister of Social Development and Others*. This judgment has serious consequences relating to the calamitous conduct and indiscretions of the Minister of Social Development, Bathabile Dlamini, for disdaining her constitutionally entrenched obligations and for the failure to meet a series of deadlines and directives from the Constitutional Court. These enjoined both the Minister and South African Social Security Agency (SASSA) to file the founding affidavits explaining the reason for the delays.

At the core of deliberations in this case was an argument as to whether the further extension of the suspension of the order of invalidity by the Constitutional Court in terms of section 172 (1)(b)(ii) of the Constitution (on its mission to protect the beneficiaries' right in terms of section 27(1)(c) from an adverse effect) reasonably supercedes the application of the breached section 217 (1) of the Constitution (which implicitly opposes the extension and existence of a contract which is not cost-effective), so as to allow the continued operation of the contract it declared invalid in its 2013 judgment. In addition, the Court had to consider whether the Minister must be personally liable for costs.

Background

On 3 February 2012, SASSA entered into a contract with Cash Paymaster Services [Pty] Limited (CPS) to provide services for the payment of social grants to the millions of beneficiaries. The said contract was valid for a period of five [consecutive] years. Subsequently, on 29 September 2013 the Constitutional Court held that the tender to provide services for the payment of social grants to CPS was invalidly awarded and thus unconstitutional. The Constitutional Court order of invalidity was necessitated by the failure of the tender process to satisfy section 217 (1) of the Constitution, which speaks to the proper procurement standards to be met by an organ of state (including SASSA and the

Minister) when contracting for goods or services (see: *AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer, South African Social Security Agency* [2013]). Concomitant with the above, the Constitutional Court then heard oral arguments *audi alteram partem* on 11 February 2014 which enabled it to pass the final judgment on 17 April 2014. The said judgment dealt with, among others, the applicable remedial action that had to follow upon the judgment. The Court declared the contract entered into by SASSA and CPS constitutionally invalid on two important grounds.

On the one hand, SASSA failed to objectively confirm the empowerment credentials claimed by the CPS and

“ The CPS had no competitor, thus making any comparative consideration of cost-effectiveness, in terms of section 217 (1) of the Constitution, practically impossible. ”

on the other hand, Notice 2 of the Bidders did not specify with sufficient certainty what was exactly required for the purposes of biometric verification. Quite evidently, the latter ground rendered the whole tender process uncompetitive in that the CPS had no competitor, thus making any comparative consideration of cost-effectiveness, in terms of section 217 (1) of the Constitution, practically impossible.

Subsequently, SASSA followed a new competitive tender process as was expected in the first place. However, on 15 October 2015 SASSA decided to withhold the tender and informed the Constitutional Court about this decision in early November 2015. By then SASSA was expected to file a report setting out all the relevant information on how and when it will be ready to assume the duty of paying social grants itself. (see; *Black Sash Judgment* at para 18)

It is common cause that everything started to go awry since April 2016 following the Constitutional Court's acceptance of SASSA's assurance to assume the duty to pay grants itself after 31 March 2017. SASSA realised that it would not be able to take over the payment of social grants itself by 1 April 2017; neither would it be able to do so for some time to come. Consequently, SASSA brought an application on 28 February 2017 for the authorisation or at least amelioration of the crisis it found itself in. Surprisingly, the Minister intervened and ordered SASSA to withdraw the application pending the filing of a supplementary progress report, which they filed on 3 March 2017 without any mention that they were under any legal duty to do so.

Prime Issues for Determination

The case brought by Black Sash Trust sought answers on a considerable number of questions which concerned the conduct of the Minister, SASSA and the CPS, together with the manner in which they reacted in relation to the directives and remedial action imposed by the Constitutional Court concerning the matter at hand. Therefore, the application triggered the following fundamental and constitutional issues:

In the first instance, the Constitutional Court had to determine whether SASSA and the CPS were under any constitutional duty to continue with the payment of the social grants after 31 March 2017. If the answer was that they do have such a constitutional duty, does the Constitutional Court then have the necessary competence to make an order compelling them to fulfil such duty? Thirdly, does the Constitutional Court have jurisdiction to resume supervision in respect of SASSA's conduct and the performance of SASSA's and the CPS's constitutional obligations? And finally, were there grounds to call upon the Minister to provide explanations in relation to costs being paid personally by her?

The Significance and Scope of the *Black Sash Judgment*

In light of the above issues, the

Constitutional Court on the basis of its exclusive competence to hear the application of the Black Sash Trust through direct access, ordered that both SASSA and the CPS are under constitutional duty to continue with the payment of social grants after 31 March 2017. This is so because both SASSA and the CPS were organs of state in relation to the extended invalid contract and that this brought about constitutional obligations for both entities. Moreover, the Constitutional Court went further to state that the CPS was indeed under constitutional duty in terms of section 8 (2) of the Constitution by virtue of it having performed a constitutional obligation previously.

As a matter of fact and law, the Constitutional Court enjoys exclusive jurisdiction to hear all the cases which raise constitutional issues and it retains its competence to enforce and compel any entity to act in compliance with its imposed remedial actions and orders. Since this case raises constitutional issues, where SASSA failed to honour its assurance that it would be able to make payment of social grants itself, and the CPS failed to timeously conclude a lawful contract to provide for the payment of social grants, the Constitutional Court has the necessary competence to compel both SASSA and the CPS to comply with its order on the basis of just and equitable remedial powers it conferred with in terms of section 172(1)(b)(ii) of the Constitution.

With reference to the conduct of the Minister, the Constitutional Court did not dwell much on this issue due to the pending affidavit explaining why she should not be joined in her personal capacity and why she should not pay costs of the application from her own pocket. In terms of sections 92; 195(1) and 217 of the Constitution, Ministers bear a responsibility to ensure proper operations of all the executive functions assigned to them. The latter includes the Minister of Social Development's responsibility to have ensured that the contract entered into by SASSA and CPS met all the tender award requirements and was competitive, fair and cost-effective

in nature. Section 217(1) of the Constitution is clear:

When an organ of state in national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

The Minister is an organ of state at the national sphere of government and she is identified in terms of sections 1 and 23 of the *South African Social Security Agency Act of 2004*. Unfortunately, the constitutional requirement for competitiveness was not met in that there was only one entity (the CPS) considered for this tender. This failure automatically makes it practically impossible to judge its cost-effectiveness and this is what triggered the contract of the

“SASSA realised that it would not be able to take over the payment of social grants itself by 1 April 2017; neither would it be able to do so for some time to come.”

CPS being invalidated. Therefore, the accountability for this blunder rests entirely on the Minister who bears the responsibility to ensure that procurement procedures are properly followed.

This case attracted the application of section 51(a) of the *Public Finance Management Act of 1999*; nonetheless the Constitutional Court overlooked this legislation. The Minister wittingly failed to ensure that SASSA fulfilled its obligations because she was fully aware from late October 2016 that the compliance, being either to make a provision for the payment of social grants through a competitive tendering process or assuming that duty itself after 31 March 2017 would be impossible. Nonetheless, the Minister did not even attempt to lodge

an application to the Constitutional Court requesting an amelioration of the then dire situation. For this reason alone, there is no basis under which the Minister can escape personal liability of the cost of this application and as such she should pay from her personal pocket (*Government of the Republic of South Africa v Grootboom* [2000]).

The Black Sash Judgment and Separation of Powers

There seems to be a belief out there that the Constitutional Court order in this case, particularly relating to the supervision of the Minister and SASSA on performing their constitutional obligations as from 17 March 2017, contradicts what is entailed in the doctrine of separation of powers. It needs to be stated categorically that the Constitutional Court has never and cannot meddle with the terrains of the Executive arm of government, unless of course it is strictly necessary for it to go that far in exercising its wide remedial powers in terms of section 172 of the Constitution.

Besides, the Constitutional Court treated the merits of this case as an exceptional circumstance (oversight) which need not be approached ordinarily. However, this must only be done to benefit and protect South Africans as our Constitution was designed to do. For that matter, the Constitutional Court then made this ruling based on its wide '172 powers,' which are not 'self-created.' As a matter of logic and practice, it is known that any application of law must be done in a way which caters for exceptional instances and that is what the Constitutional Court did in this case.

The beauty about the Constitution we have is that those who are charged with the responsibility to safeguard constitutional democracy will do whatever it takes to secure it with the highest level of transparency and accountability. That is why the Constitutional Court, precisely to secure this constitutional democracy, resorted to the application of its widest 172 powers. No one can flout the law and Court orders without any consequences. ■

FALLISM AND THE DIALECTICS OF SPONTANEITY AND ORGANISATION

Disrupting Tradition to Reconstruct Tradition



The contrast between the born-free label given to them and their conditions and feeling of being un-free in the higher education and broader social environment is the result of the untransformed nature of the education system and the social system within which the education system functions.

By Mphutlane wa Bofelo

The modern proletarian class does not carry out its struggle according to a plan set out in some book or theory; the modern workers' struggle is a part of history, a part of social progress, and in the middle of history, in the middle of progress, in the middle of the fight, we learn how we must fight... That's exactly what is laudable about it, that's exactly why this colossal piece of culture, within the modern workers' movement, is epoch-defining: that the great masses of the working people first forge from their own consciousness, from their own belief, and even from their own understanding the weapons of their own liberation. Rosa Luxemburg

This article explores the principles and ideologies embedded in Fallism or the Fallist Movement in relationship to the discourse on transformation in South Africa. It examines how the continuities between apartheid and post/neo-apartheid realities shape the political consciousness, ideological perspectives and activism of the Fallism generation. From this basis it explains the emergence of Fallism in South Africa through the logic and notion of historical experiences – historical consciousness, material conditions – social consciousness, structure-agency nexus. It further examines the interplay between spontaneity and organisation in the context of Fallism, applying Rosa Luxemburg's notion of the Dialectics of Spontaneity and Organisation. It concludes by enlisting Walter Benjamin's theory of Traditions of the Oppressed to argue that Fallism represents both continuity and discontinuity of the traditions of the historic liberation movements and emergent Social Movements in South Africa.

Journalist Fikile-Ntsikelelo Moya asserts that the name Fallism is derived from the fact that the common thread in the campaigns and movements concerned is the call or demand that something or someone must fall.¹ This article concentrates on the Rhodes Must Fall and Fees Must Fall, with some reference to Outsourcing Must Fall Movements. The decision to focus on these 'movements' is influenced by the explicit interconnectness of the issues they deal with. The three movements or campaigns operate

within a shared 'socio-geographic' community and site of struggle (Higher Education Campus) and all deal with issues directly and indirectly related to conditions and sense of alienation and de-humanisation, marginalisation and exclusion, discrimination and exploitation in a space in which the protagonists are subjected to a peripheral and subaltern existence. These sections of Fallism also have a shared opposition to neoliberal capitalist exploitation and 'new imperialism' and a devotion to the theme of de-commodification, de-coloniality, intersectionality, solidarity and anti-sectarianism in their struggles.

The Rhodes Must Fall and Fees Must Fall Movements are particularly overt in their non-partisan non-alignment stance in relation to political parties and social movements and in their declaration of their unifying philosophical and ideological frame of reference as Black Consciousness, Pan Africanism, Black Feminism and Queer politics. The campaign for the resignation of President JG Zuma pursued under the slogan 'Zuma Must Fall' is not included in this article particularly because of its lack of the attributes shared by these three segments of Fallism. While the campaigns/movements that are the focus of this analysis continue to exist as Rhodes Must Fall, Fees Must Fall and Outsourcing Must Fall, the Zuma Must Fall initiative seem to have found its home, expression, platform and movement in Save South Africa.

In their intellectual ideological political homilies, speechifying, and symbolisms the three 'movements' are explicit that the issues they raise are a mobilisation platform and point of entry in their struggle against racism, classism, sexism, patriarchy, neoliberalism and new imperialism, and their struggle for the de-commodification of labour and education, and for de-colonialisation at all levels of society and the state. Implicit in their discourse is a critique of the kind of South Africa they don't want and general articulation of the kind of Azania² they dream of or at least the principles around which it should be constructed.

One cannot say the same of the campaign for Jacob Zuma to step

down as the president of South Africa. Beyond its key theme of protection of constitutionalism and the rule of law, it does not project any unifying philosophical and ideological worldview and vision of the social system it envisages. In his emphasis of the need for people struggling against injustice to start imagining how they will live afterwards, Fikile-Ntsikelelo Moya raises the concern that he has never heard what those behind the Zuma Must Fall initiative think must happen thereafter. For these reasons, the Zuma Must Fall is not included in this appraisal of the Fallist Movements. Thus, for the purpose of this article, Fallism shall refer to movements who use the strategy of

“The material and social reality of being beneficiaries of privilege accrued from social stratification based on race, class and gender made a sizable number of conscientious white students and academics find common cause with Black students in their struggle against neo-colonialism.”

focusing on one key symbol, issue or figure as a rallying and mobilising point to advance an ideological and political programme directed towards the fall of structures of oppression, exploitation, discrimination, disenfranchisement, exclusion, powerlessness, based on race, class, gender and other forms of social exclusion.

Rhodes Must Fall:

Engaging the colonial legacy and the continuities of racial-capitalism in post-apartheid SA

"We need history, but our need for it differs from that of the jaded idlers in the garden of knowledge."

Nietzsche, *On the Advantages and Disadvantages of History for Life*

On March 9, 2015 students at the University of Cape Town (UCT) rose up in a protest against a statue at the university that commemorates Cecil Rhodes. The protest movement grew bigger to focus on the wider issues represented by the alienating presence of the arch-imperialist's statue at the university. The character of the movement is aptly captured by the UCT chapter's definition of itself as "a collective movement of students and staff members mobilising for direct action against the reality of institutional racism at the University of Cape Town."³ The statue of Cecil John Rhodes was ultimately removed on 9 April 2015, following a vote of the UCT Council on 8 April 2015, but the RMF lives beyond the fall of the statue and has culminated into a wider movement to "decolonise" education across South Africa.

The Rhodes Must Fall movement emerged as an expression of the discontent and rage of Black students and Black staff at the University of Cape Town in response to the alienating colonial architecture, euro-centric culture of the university and a fee structure that is completely hostile and unsympathetic to the realities and experiences of Black people. The collective experience of racial profiling, financial and academic exclusion and general alienation in a higher education institution with Euro-centric ethos found motif in the struggle against the symbolic representation of the colonial legacy, i.e the statue of the arch-colonial racist – Cecil John Rhodes. However the issues that mobilised the movement are deeper and bigger than a protest against the statue.

At the core of these issues is the history of the university's indifference to Black students feeling of being alienated by its euro-centric education practices and lilly-white culture, its downplaying of the students' struggle with exorbitant fees and its apathetic response to incidents of rape and violence against women on campus. It is no wonder that students in other universities immediately connected to the issues raised by the campaign that initially started at UCT and that

within a short space of time Rhodes Must Fall became a movement, with participation by university students across the country.

Raeesa Pather observes responses from some UCT students to the Rhodes Must Fall movement that revealed the day-to-day racism that slips under the campus radar. The students she interviewed shared stories and experiences of white students referring to RMF students as “monkeys” and “kaffirs” or “savages” who “destroy everything they touch” on social media; and of black staff and students frequently reduced to tears by the racism they encounter from their peers. Recognition of the relationship between the valorisation and denigration of the black body, the sexualisation and objectification of the female body, the vulgarisation and censure of the queer body and the commodification and exploitation of the body of the worker, and the ridicule and belittling of disabled bodies, led the activists of Rhodes Must Fall and later Fees Must Fall and Outsourcing Must Fall to intersectionality.

The practical reality of the connection between the social structures that oppress, exploit, de-humanise and discriminate against Black people, women, the Gay, Lesbian, Bi-Sexual, Transgender and Intersex (GLBTI) community, workers and disabled people, raised awareness of the interconnection between racism, capitalism, patriarchy, homophobia, ableism etc. Black students’ reflections on and awareness of the broader social, political, economic and cultural environment that shape their marginal and peripheral existence at the lilly-white institution made them ponder on the continuities between pre and post-1994 South Africa.

Ironically, it is precisely the fact that a significant number of the current generation of students falls under the category of youths born after 1994 that raised their keen awareness of the continuities between the social and power relations under the settler-colonial and racial-capitalist set-up and in the post/neo-colonial and liberal-capitalist dispensation. The Black students’ realisation of the systemic, structural and institutional nature

of these continuities made them recognise that the contrast between the born-free label given to them and their conditions and feeling of being un-free in the higher education and broader social environment is the result of the untransformed nature of the education system and the social system within which the education system functions.

True to the Marxist notion of the nexus between material realities and social conditions and historical and social consciousness, the harsh material reality of being the other in a university with a history of being a white university in a colonial town raised the Black students’ social and historical consciousness. On the other hand, the material and social reality of being beneficiaries of privilege accrued from social stratification based on race, class and gender made a sizable number of conscientious white students and academics find common

“The movement is clear and uncompromising that the de-colonialisation of higher education institutions shall be led by Black students.”

cause with Black students in their struggle against neo-colonialism, while a significant number of white students and academics held on to the comforts and privilege and saw the Rhodes Must Fall Movement as an unnecessary disruption.

The racist mindset of some of the white academics is reflected by an academic at one historically white university who rebuffed the concern that the dominance of texts by white Anglo-Saxon writers in books prescribed in the English literature department alienated Black students as simply a matter of Black students being lazy.

The students’ recognition of the complementarity between the education system and the socio-political-economic system is reflected in their deliberate adoption of Black Consciousness, Pan

Africanism, Queer Politics and Black Feminism as their philosophical and ideological frame of reference and their articulation of the intersection between race, class and gender. This finds resonant expression in the assertion by Kealeboga Ramaru, a student in RMF, that: “When we say ‘Rhodes Must Fall’ we mean that patriarchy must fall, that white supremacy must fall, that all systematic oppression based on any power relations of difference must be destroyed at all costs”.⁴

After the fall of the statue of Cecil John Rhodes the students continued to operate under the name Rhodes Must Fall, interpreting the name as symbolising the fall of systematic oppression accrued from colonialism. The students’ observations that the two decades of transformation being the catchphrase at the centre of government policies and public discourse have brought no meaningful change realised that social, political, economic and educational structures are made un-transformable by the colonial and neo-colonial base, foundation, parameters, conventions and protocols in which they are rooted. Therefore students moved away from a simple call for transformation to a call for the de-colonialisation of universities to create a campus environment, a university culture and education practices that embrace rather than alienate the reality of being black and female and working-class in the world.

This necessitates institutional codes and practices, epistemology and pedagogy rooted in the historical-material realities of South Africa instead of jettisoning and rebuffing the historical, cultural, social and political realities of South Africa and Africa. Thus, the immediate practical programme of the movement constituted of three major practical demands/proposals:

- the university must hire more Black academics;
- the university must stop outsourcing workers; and
- the university must develop an Afro-centric curriculum.

These demands are centered on the theme of de-coloniality but also express the idea of Black Solidarity and the principle of Black Worker-Student Solidarity which reflect the students’

awareness that their education issues are inseparable from broader societal issues and the specific experiences of the broader Black community and the working-class.

In as far as organisational form and organisational culture is concerned Rhodes Must Fall from the inception asserted the principles of students' self-organisation around common issues and collective activity involving all students' organisations and students from various social and political backgrounds, without affiliation to a specific political party and without a rigid organisational structure or hierarchy. While committing to stay student-centric and non-partisan, the movement accepts support and advice of elders and activists from organised civil society, labour, social and political movements.

The organised student formations affiliated to political parties like the Pan African Students Movement, EFF students and South African Students Congress (SASCO) are active in the movement. This raises concerns and challenges of struggles and contestations for political hegemony of the movement among the different political and ideological currents. This is also complicated by the diversity of the entire student body. The movement seeks to mediate this diversity through intersectional politics that are inclusive of all its members. The movement has therefore positioned itself as a place of all people in agreement with the themes and objectives of de-coloniality and intersectionality, including white people. However, the movement is clear and uncompromising that the de-colonialisation of higher education institutions shall be led by Black students. The perception that universities like Rhodes and UCT are colonial fortresses also influences the students' confrontational and non-trusting attitude towards university administration.

This attitude was expressed well by Kealeboga Ramaru on the occasion of the falling of the statue of Cecil John Rhodes:

"We must at no point forget that management is our colonial administrators, and their removal of the statue is merely an attempt to placate us and be perceived as sympathetic....

Our freedom cannot be given to us – we must take it."⁵

The movement is equally unapologetic in its choice of confrontational and transgressive methods and tactics. It offended the liberal sensitivities of many people with its defense of Chumani Maxwele's poo protest⁶, its exclusion of white students from certain actions and fora and its defense of PASMA's chanting of the "One settler, one bullet" slogan at the movement's gatherings at UCT. Members of the Rhodes Must Fall defense of the slogan are that the slogan is a rallying call to protest and tackle colonialism at the universities.

Fees Must Fall and Outsourcing Must Fall:

The Dialectics of Spontaneity and Organisation

The principles of de-commodification, de-coloniality and intersectionality born out of Rhodes Must Fall were later adopted and updated by the Fees Must Fall Movement which emerged in mid-October 2015. The Centre for the Study of Violence and Reconciliation's research-study report titled *#Hashtag: An analysis of the Fees Must Fall Movement at South African Universities*, found that the issues of decolonisation and transformation were central themes promoted by those involved in the protests.⁷ This confirms the link between the philosophical and ideological framework of RMF and FMF as informed by the commonness of their political terrain and the practical realities that brought them into existence. Fees Must Fall began in mid-October 2015 in response to an increase in fees at South African universities. The students soon found common cause with the workers at the university who are subjected to precarious labour in the form of casualisation and outsourcing. The protests started at the University of Witwatersrand and spread to the University of Cape Town and Rhodes University. The protests received sympathy from various sections of South African society and elicited international solidarity. A Cape Town daily newspaper, *The Cape Argus*, invited students to co-edit the day's edition of the newspaper. Articles were written, commissioned and edited by

the students involved in FMF.

On 23 October 2015, a group of around 200 students gathered at Trafalgar Square, London in front of South Africa House to show support for protesting students in South Africa. On the morning of the same day university vice chancellors and student representatives met with President Jacob Zuma in Pretoria to negotiate a way forward. Whilst they were meeting, a large group of protesting students assembled outside the Union Buildings to await Zuma's response. A small group turned violent, setting fire to a portable toilet and breaking down fences. The police responded with tear gas, stun grenades, and rubber bullets. Another group of students called for restraint and discipline, stressing it was a peaceful protest. Later in the day, after about 3pm, President Zuma announced from within the Union Buildings that there would be no increase in university fees in 2015.

The announcement was welcomed by the students as a victory and brought a stop to the Fees Must Fall protests. The 2015 protests led to the establishment of a Commission of Inquiry into Higher Education and Training. In 2016 the students resumed the protests in response to the announcement by the Minister of Higher Education of fee increases capped at 8% for 2017, with each institution given the freedom to decide by how much their tuition fees would increase.

The 2016 protests saw the movement lose momentum, due to alleged sabotage by the Progressive Youth Alliance (PYA) – which is aligned to the ruling African National Congress (ANC) and internal divisions.⁸ The Fees Must Fall Movement appeared to find it difficult to deal with the alleged infiltration by the PYA and the tensions emanating out of contesting political and sectional interests. In addition, the relatively ad hoc nature of its programmes has raised issues about the weaknesses of Fallism, particularly its spontaneous character and apparent aversion to conventional organisational arrangements.

Extensive research on the strengths and weaknesses, victories and successes of the Rhodes Must Fall and Fees Must Fall movements is required for

a more objective appraisal of Fallism. A brief examination of these strengths and weakness will suffice for this article. In the main the key strength of Fallism is its insistence of non-partisan student-centered action, Black student leadership, student-worker-community solidarity and intersectionality. This helps to reignite the unity-in-action coalition-building, movement-building traditions of the '70s and '80s that facilitated civic, labour, political and community organisations and people of all social backgrounds to work together against apartheid.

The respect for diversity and plurality and keen awareness of the plight of excluded and discriminated sectors of society made RMF and FMF a place where the gender and sexuality issues and the feminist and queer voices found a platform more than ever before in the history of student struggles. Included in the strengths is the ability to elicit international solidarity, as was the case with the liberation movement in its struggle against apartheid-capitalism. Within a short period of time the call for de-colonising universities had crossed the borders of South Africa, with progressives at Oxford University involved in campaigns for the removal of the statue of Rhodes on their campus just after the protests had spread throughout South Africa. This brought public focus – locally and globally – to concerns that have long been there, but waiting for vociferous articulation and vigorous action.

The most important of these concerns is the reversal and replacement of multi-culturalism and sensitivity to the distinct needs and demands of historically oppressed and marginalised communities by rising fascism, market fundamentalism and empire politics. This particularly relates to the rampant “institutional racism” in the world and more insidious and crude in South Africa.

Amit Chaudhuri’s definition of institutional racism as the resurrection of the colonial order, which was by no means managed exclusively by racist individuals, but by people who believed that a skewed system was normal⁹ is more relevant in the South African situation. The Rhodes Must Fall and Fees Must Fall movements

amplified and exposed this conception of institutional or systemic or structural racism with exposure of how some of the institutions that pride themselves as centres of progressive liberal, social democratic and leftist traditions were reeking with racist attitudes and practices.

The movement forced the state and society to search for underlying reasons behind questions such as: why are there so few black professors in South Africa? Why are there so few Black African South African post-graduates at South African institutions? Why do Black students feel so alienated at universities and why are female students so unsafe at the universities? Why have South African students turned on their parents’ generation?

Most importantly, the Fallist movements have helped South Africans to reflect on the extent of damage caused by an overzealous obsession with reconciliation and nation-building without bold confrontation of the structures that produces and entrench racism, classism, sexism and related forms of discrimination. It exposed the failures of the country to deal honestly and decisively with the issues of redress, restitution, restoration, reparation, redistribution and reconstruction as the sine qua non for genuine reconciliation and sustainable nation-building. It also highlighted the relationship between the dominant values within the institutions and broader society and the power and social relations that are shaped by skewed patterns of ownership and control of the economy. The immediate victories of these Fallist movements include:

- the fall of the statue of John Rhodes at UCT;
- the setting up of the commission;
- the government’s increase of the amount budgeted for higher education by R17-billion over 3 years;
- government’s commitment to increase subsidies to universities by 10.9% a year;
- the increased use of blended learning by South African universities to assist non-protesting students to complete their courses;
- free education returned to the centre of policy debates in the country,

with the then minister of Finance, Pravin Gordon, pronouncing on 25 August 2015 that if corruption could be addressed, South Africa could afford to cover university fees for students from poor backgrounds;

- the theme of de-colonialisation became more pronounced in the transformation discourse in South Africa;
- the Outsourcing Must Fall campaign born out of the Fees Must Fall Movement put a spotlight on the plight of workers who are in precarious jobs at universities and spread to other sectors in the economy where workers are subjected to precarious work and unfavorable conditions of employment;
- outsourcing Must Fall led to UCT announcing that hundreds of previously contracted jobs will be insourced from July 2016; and
- at the University of Free State workers won a 100% pay rise as part of the in-sourcing agreement with management, with the Socialist Youth Movement (Workers’ and Socialist Party – WASP’s youth wing) playing a leading role.

Another gain for the movement was the support for its cause from civil society. The greatest weakness of the movement is the inability to keep the momentum of advocacy and activism for free and de-colonised education going beyond the protests in response to specific issues. After the fall of the statue the Rhodes Must Fall activities subsided and its voice in the public discourse faded somewhat. Similarly, the Fees Must Fall seems to be more active and vocal at the time of registration and protests against financial exclusion. Whatever work these organisations do in between the protests is not out there in the public domain.

The loose character of the movement reduces its capacity to plan ahead for eventualities such as the arrests of its members and fight back. The lack of structure and codes of operation also reduces the capacity of the movement to defend its activities and independence in situations where established and resourced organisations engage in acts aimed at deviating the agenda and programme

of the movement or hijacking it. The spontaneity of the movement's actions and its seeming aversion to organisation and structure also denies it the ability to develop a protracted and sustained political programme. It also means not all people who participate in its programmes and activities are oriented or subscribe to its values such as non-discrimination and respect for diversity. This results in situations where it cannot effectively reign in those who act in contrast to its principles, such as misogynist and homophobic elements who may be found in the student movement – and who may display these tendencies at the protests and rallies of the movement.

The movement also seems to lack the capacity to protect its protests from infiltration or to identify and control criminal elements and political agents deployed to take focus away from the essence and subject of their struggle. Some form of organisational structure with a leadership collective, foundational documents, programme of action and code of practice would be helpful for the movement to avoid the situation whereby it is not in control of who can speak and act in its name.

A case in point is made of how, while the FMF insist on not having an organised leadership structure, the media ordained Nompandolo Mkatshwa the face of the 2015 Fees Must Fall, with *Destiny* magazine portraying her as the face of Fees Must Fall. Some people on twitter asked why the magazine chose to portray Mkatshwa as the face of FMF ahead of Wits SRC president Shaera Kalla who was effectively the one leading Mkatshwa, and questioned not only why the magazine put a face to the movement but also why it specifically chose the picture in which Mkatshwa wore an ANC scarf. *Destiny* claimed that the magazine did ask Mkatshwa to wear a more “neutral” scarf, but she refused.¹⁰ It is difficult to dismiss the suggestion that Mkatshwa's refusal to wear a more neutral scarf was a political decision aimed at providing mileage for SASCO and at showing that the influence of the congress movement permeates everywhere in society. Similarly it is difficult not to find the decision of the media to refer to Mcebo Dlamini as the leader of the

Fees Must Fall Movement as part of a ploy to impose a person from within the congress movement as the voice and face of Fees Must Fall. This imposition of Mkatshwa and Mcebo as the face and voice of FMF as well as the alleged hijack of the march that was meant to go to Luthuli House by PYA created tensions and division.

In the context of a loose movement the Fees Must Fall has to address such tensions in a manner that does not polarise the movement. The divisions within student leadership somehow weaken their case, throttle their fighting capacity and distract them from engaging in a protracted uninterrupted struggle for de-colonialisation. It makes it difficult for them to develop

“Some form of organisational structure with a leadership collective, foundational documents, programme of action and code of practice would be helpful for the movement to avoid the situation whereby it is not in control of who can speak and act in its name.”

a common platform on which they can continuously engage in broader public discourse, bringing in their de-coloniality project to debates on economic freedom and related issues such as land redistribution and radical economic transformation. Fikile-Ntsikelelo Moya articulates the problematic of focusing energies on immediate gains without reflecting on long-term institutional, policy, strategy and programmatic issues when he observes:

I get the sense that most of the energy (of the Fallists) is spent on dealing with the present problem without adequately preparing for life after the problem has been solved, as

if they do not believe their campaign will bear fruit.....We only need to look to our recent past to see how struggles hinged on being opposed to something, but not necessarily pro another thing, end up.¹¹

A Black Consciousness elder who works closely with the RMF mentions that the members of the movement say their rationale for not having a leadership structure is to avoid harassment. This reason is not plausible enough because whether a resistance to oppression and injustice takes a completely spontaneous nature, organised, unorganised or semi-organised forms, whether there is a leadership collective or not, the system will make attempts to crush it. The harassment of individuals is unavoidable, and so is infiltration and attempts to co-opt the movement or a section thereof. It is also important to note that, in the absence of a centrally coordinated programme of action, political education, mobilising and activism initiatives become disjointed and open to capture by organisations or political forces that are dominant at a particular university.

On the other hand the relatively loose and spontaneous character of the movement can be useful in protecting it from the hierarchical, authoritarian and dogmatic conventions that often stunt creativity and plurality of perspectives within traditional political parties and social movements. An awareness of the gaps and advantages in both spontaneity and organisation could allow for a dynamic conversation between older activists who are schooled in the lore and tactics of organisation and the younger generation with more inventive manoeuvres and channels characteristic of current waves of popular uprisings.

However the obstacle to this seems to be skepticism towards organisation on the part of the Fallists and contempt for spontaneity on the part of the traditional left and radicals. This perception of a rigid dichotomy or separation between spontaneity and organisation is not helpful. Perhaps the best way forward for the moment should be seeing spontaneity and organisation as complementary rather than incompatible.

This would allow for organic

responses to immediate situations but also for the building of organisational and leadership capacity and political and ideological development. This could empower the movement to make certain interventions utilising spontaneous actions to build capacity for sustained and protracted struggle.

This approach is in line with Rosa Luxembour’s argument that spontaneity and organisation are not separable or separate activities, but different moments of one political process. Luxembour defines “spontaneity” as a grass roots approach to organising a party-oriented class struggle.¹² Believing that spontaneity is the elementary moment from which the class struggle evolves to a higher level of organisation, Luxembour argued that one cannot exist without the other. She advocated that organisation mediates spontaneity; and spontaneous struggles provide a momentum and environment for organisation.

This idea that organisation must mediate spontaneous action becomes more important in the face of current experiences of how the organic uprisings in the Middle-East and Northern Africa – the so-called Arab Spring – either quickly dissipated or were captured by interests that had nothing to do with revolution, precisely because of a lack of an ideological agenda and political programme. The manner in which the 2016 wave of Fees Must Fall protests were redirected by the PYA also highlights the need for organisation to mediate spontaneity. On the other hand, the manner in which organisational arrangements and highly centralised hierarchical structures of authority and processes of decision-making are used in traditional political movements to put a squeeze on dissent and entrench gate-keeping and empire-building tendencies exemplifies the deficit of organisation.

Organisational traditions are sometimes at variance with current material realities. Contemporary experiences of the people prove the correctness of Rosa Luxembour’s proposition that organisation should be informed by the daily struggles and immediate organic actions of the masses as they spontaneously engage with the issues facing them.¹³ A

nuanced application of the Dialectic of Organisation and Spontaneity, rooted to the dynamics of South Africa, could be useful for Fallism and conventional political, civic, social, community and labour organisations. It would enable them to explore and engage in a dynamic process of fusion of spontaneous action and anarchist traditions with organisational and deliberate planning. This would allow for spontaneous action to benefit from the insights and expertise of organisation, and for organisation to draw strength and build from the space and conditions created by spontaneous struggles.

“ It is precisely by opening themselves to an interrogation and interruption by the new generation of activists and movements that old generations of activists and movements can be assured of a revolutionary continuation of the best of their practices and a revolutionary discontinuation of the worst of their practices.”

Conclusions

Continuity and discontinuity of SA liberation struggle politics in Fallism

“The continuum of history is the one of the oppressors. Whereas the idea [Vorstellung] of the continuum levels everything to the ground, the idea [Vorstellung] of the discontinuum is the foundation of real tradition.” Walter Benjamin

The Fallist anti-colonial and anti-racist struggles – and the language that developed out of the struggles – went beyond the class and gender perspectives of social and power relations. Fallism traced the roots of political oppression, economic

exploitation and social denigration of Black people in South Africa to colonialism and imperialism.

Consequently it identified racism and white supremacism as the ideology employed in service of capitalism, colonialism and imperialism. Thus, Fallism re-ignited Pan Africanist, Black Consciousness and Black Feminist traditions and re-located the perspectives of Du Bois, Garvey, Césaire, Senghor and Lumumba; Nkrumah, Sobukwe; Cabral, Malcolm X, Kwame Toure (Stockely Carmichael), Biko, Sankara, Ivan Van Sertima, Assata Shakur and Bell Hooks at the centre of current struggles and contemporary policy debates on transformation in academia and broader society.

It also heightened students and youths’ interest in and interaction with current Pan Africana philosophies and Black intellectual traditions such as the Afro-centricity of Molefi Kete Asante and the Afro-Pessimism of Frank Wiltherson. Consequently, Fallism motivated students, youths and workers to fuse the language, culture and images of the liberation movement traditions with contemporary modes and new chic and cheeky avenues and idiomatic expressions of struggle. In so doing, Fallism simultaneously reclaims and appraises the traditions of struggle and messes up, unsettles, disrupts and discontinues these traditions to create forms of politics and activism that speak to the turbulence and hurly-burly of the time’s and place’s and spaces they find themselves in.

It plays James Brown’s “Shout it aloud: I am Black & Proud!” and the BCM’s “Black is Beautiful” at high voltage to express the hope and ideal of Blackness freed of White Supremacism and Black inferiority\ docility complex. At the same time it irrepressibly screams that “Blackness is an excrement of Whiteness”, “Blackness is death” in recognition of the wretchedness of Black bodies and desolation in an extremely anti-Black world where Blackness is not a mere cultural identity, but a position of accumulation and fungibility (Saidiya Hartman)...a condition — or relation — of ontological death.¹⁴

To a mind that is longing and romantic about the past ways activism

and the struggle at the expense of being cynical of everything in new ones, Fallism urinates on the graves of heroes. To a mind that is puffed-up and quixotic about the present modes of activism and forms of struggle at the price of making modernity, avant-gardism or newness the creator of everything, Fallism is the all-mighty new and fresh beginning. What we are referring to here are two extreme paradigms of engaging with a 'new' movement\moment like Fallism. On one extreme is the viewpoint of projecting a particular moment\movement as a momentous, earth-shattering tumultuous big moment of complete rupture that disrupts and ends histories and traditions and begin a brand-new new history and creates spanking new traditions.

The problem with the romantic view of any particular movement\moment in history as the new big thing or as the end and beginning of history is that it buries the histories and traditions of the oppressed in the name of creating a new philosophy and culture of liberation. It therefore presents history and philosophy, and tradition and progress as binary opposites. This gives the so-called new person the pomposity that makes him / her strut around like he / she is the first person to see the world as it is. It therefore denies the new movement the wisdom that philosophy derives from history and the sensitivity and discernment that progress develops from tradition. This is typified by the tendency to think of concepts such as de-coloniality, intersectionality, and anti-sectarianism and confrontational and transgressive politics as new inventions of Fallism, rather than principles and practices born out of the concrete and tangible historical and material realities within whose womb the agency, activism and struggle of the Fallist generation is born. This framework prohibits the old generation from connection and intimacy to the language and struggle of the new generation, leading to their dismissal of it as the folly of the young.

It also disallows the young generation the perception and insight to realise how their idiomatic and practical expression of struggle is indebted to the history and traditions

of the struggle of the old. On the other extreme is the framework that ascribes everything to tradition and therefore sees the new movements\moments as simply a continuance of the old. This framework perceives the concepts and practices of new movements as simply versions and extensions of the old and therefore jettisons anything that tends to significantly vary from old ways as an aberration; a deviation that should be seen as an abomination.

Neither of these perspectives is useful. One perceives tradition as "a great retarding force," and one sees modernity as a destabilising force. One sees organisation as a great hindrance and the other perceives spontaneous action as an inoperable circuit. But in reality tradition and modernity, history and philosophy, organised action and spontaneous action feed from one another and cannot exist without the other. There is a dialectic interaction between the students' historical memory / historical consciousness (of the slave rebellions, anti-colonial struggles and liberation wars, of the battle of Isandlwana, the June 16, 1976 uprising, etc) and their objective experiences of marginalisation / exclusion / discrimination.

Fallism should be seen as continuing as well as discontinuing the traditions of the Congress Movement, the Pan Africanist and Black Consciousness Movements, the Social Movements that emerged in the '90s in response to capitalist globalisation and neo-liberalism, and the Black Consciousness inspired counter-hegemony and counter-culture movements like the Blackwash and September National Imbizo that preceded the Rhodes Must Fall, Fees Must Fall and Outsourcing Must Fall movements. This kind of understanding will allow the older generation of activists and segments of the historic liberation movement to appreciate the new movements as building on the legacies and traditions of struggle of their predecessors and responding creatively to current realities — discarding, updating and replacing modes of resistance and protest with new forms of rebellion and activism. Leigh-Ann Naidoo captured this well in her 'Open Letter to Barney Pitso in the Rhodes Must Fall Movement' in

which she inter alia beseeched:

If you would show solidarity and engage from the vantage point of being willing to listen and learn rather than knowing better than them, then you would be able to start seeing the amazingness of these young students – mostly undergraduates and honours students. They don't have all the answers as they grapple with competing oppressions and urgent issues. They are working with concepts like 'intersectionality' that bring in to focus the multiple oppressions that occur in addition to the race/class lenses of the past. The movement and its public or popular education programme has created a space that has allowed for people with varying privileges and their corresponding blind spots, to be part of the conversation. This is radical dialogue, which I believe formed part of the legacy with which BC has left us.....Biko and you would be impressed by the Black female voices and black transsexual voices in the conversation.

But you don't have access to any of this because you choose to stand outside of the movement and last we heard from you, you were challenging Prof Pumla Gqola, who has been writing and thinking about radical BC, because you believed somehow that the idea of removing the statue was not well or deep enough thought through. Pumla has come to speak and listen at Azania House, why haven't you? Is it perhaps because it may make your boardroom meetings with the powerful untenable? Or is it that you have been contorted by privilege and comfort? I am asking because I truly don't know and would like to understand how so many of the people who fought and sacrificed to fight Apartheid and all its oppressions can stand by silently now and ignore the fact that while things have changed, a lot has morphed into something worse. Poverty and inequality under the ANC's watch is getting worse, and there has been a rampant entrenchment of white privilege, even under a black government.¹⁵

Leigh-Ann Naidoo was essentially

appealing for Pityana to see his SASO\BPC activist self in the young activists of Rhodes Must Fall and hear the voice of chief Mangosuthu Gatscha Buthelezi's protest against his (Pityana) radicalism of the '70s in his (Pityana's) critique of the confrontational and transgressive politics of the Fallists. Indeed the history of the liberation struggle in Azania is the history of the disruption of tradition to create or reclaim a tradition or rather the history of discontinuity and continuity.

The South African Native Congress of 1912 disrupted the tradition of resistance to colonialism and imperialist invasions along tribal lines and introduced the mobilisation of African people around African Nationalism. Under the new name of the African National Congress (ANC) and within the framework of the Freedom Charter it interrupted African Nationalism with its adoption of multi-racialism and non-racialism. The Pan Africanist Congress contested the multi\ non-racialism framework with its notion of the oneness of the human race and the centrality of the African experience and African people in the struggle against colonialism. The Black Consciousness Movement updated the PAC's scientific explanation of race as a social construct and a function of the politics and the economy with the Anti-racism position and an explicit broad definition of Black to include all 'people of colour.' The ANC Youth League the ANC generation of the '50s and the Pan Africanist Congress respectively disrupted the old ANC tradition of petitions and deputation to international institutions and took the struggle into the realm of mass action with the 1949 Programme of Action, the Defiance Campaigns and the Anti-Dompass demonstrations. The Poqo operations went beyond peaceful protest to armed resistance. The 1970s generation, fueled by the fire of Black Consciousness, moved beyond the traditions of protest to resistance and rebellion; and the '80s generation took the rebellion to the level of rendering apartheid South Africa ungovernable with peaceful and violent acts of civil disobedience, popular uprisings and armed insurrections.

As Walter Benjamin observes, history is not based on a progressive flow of "homogeneous, empty time" directed to the future; but on a disruptive

constellation of the present and the past.¹⁶ The impact of the legacy of the past and the lessons we gain from the exercise of discerning what of the past is use-worthy and what is garbage implies that the past is not simply gone. In other words, the past cannot be fully historicised.

The point is not whether or not the struggling oppressed maintain or disrupt traditions in their quest to develop the culture of liberation and to demolish the structures and traditions of oppression. The point is how best the struggling oppressed update and improve the most liberatory traditions of their past and how they free themselves from the most oppressive traditions of the past. It is precisely by opening themselves to an interrogation and interruption by the new generation of activists and movements that old generations

“The task of the oppressed is more to identify which tradition is inherently or potentially oppressive and which is inherently or potentially liberatory.”

of activists and movements can be assured of a revolutionary continuation of the best of their practices and a revolutionary discontinuation of the worst of their practices.

There is a dialectic and complementary relationship between the optimism of "Shout it aloud: 'I am Black & Proud'"; "Black is beautiful" and the pessimism of "Black life is death"; "Blackness is the excrement of Whiteness". Understanding this dialectic is not only the function of how 'the struggling, oppressed class relates to its oppressed past' in order to know what 'past is constitutive or destitute of tradition'.¹⁷ It is also the function of identifying which aspects of the tradition are oppressive and which possess liberatory ethos.

Walter Benjamin asserts that 'The history of the oppressed is a

discontinuum. The task of history is to get hold of the tradition of the oppressed'.¹⁸ The argument we have presented is that history constitutes both continuity and discontinuity and that the past carries both oppressive and liberatory memories and practices. Consequently our position is that the task of the oppressed is more to identify which tradition is inherently or potentially oppressive and which is inherently or potentially liberatory. Therefore we conclude that the task of the Fallists and other new emerging movements is to combat and discontinue the oppressive aspects of social and political traditions and to reclaim, update, preserve, continue and expand the liberatory elements of social and political traditions. ■

References:

- ¹ Fikile-Ntsikelelo Moya, 2016. 'Fallists need future view too'. *The Mercury* 9 April 2016
- ² Azania is the name first adopted by the Pan Africanist Congress of Azania and later endorsed by the Black Consciousness Movement and leftist Socialist formations like the African Peoples Democratic Union of South Africa (APDUSA), New Unity Movement (NEUM) and Workers Organisation for Socialist Action (WOSA) as the name of a liberated South Africa. The literal translation of Azania is the land of the Black people. Citing Runoko Rashidi and Ivan van Sertima (eds), *African Presence in Early Asia*, Transaction Press: New Brunswick: 1995, Black Consciousness stalwart and Maoist theorist Imrann Moosa links the etymology of Azania to the Zanj Rebellion (869 – 883 AD). This consisted of a series of small revolts that eventually culminated into a large rebellion that saw 500 000 slaves sacking Basrah and setting up their own state, advancing to within 70 miles of Baghdad itself. The Zanj built a city in the marshes that was almost impregnable due to its watery location. They even minted their own currency. The Zanj maintained their state for some 15 years.
- ³ Rhodes Must Fall. Wikipedia. https://en.wikipedia.org/wiki/Rhodes_Must_Fall
- ⁴ Raeesa Patel, 'Rhodes Must Fall: The Movement after the statue'. *The Daily Vox*, 24 April 2017 <http://www.thedailyvox.co.za/rhodes-must-fall-the-movement-after-the-statue/>
- ⁵ *ibid*
- ⁶ On 10 March 2015, UCT student Chumani Maxwele flung human waste on the statue of Rhodes, calling for the monument to be taken down. This led to scores of protesting students drenching the statue in human excrement.
- ⁷ Langa, M. (ed) 2016. # *An Analysis of Fees Must Fall Movement in the universities of South Africa*, Centre for the Study of Violence and Reconciliation: Braamfontein, Johannesburg.
- ⁸ Rhodes Must Fall. Wikipedia, op.cit.
- ⁹ Amit Chaudhuri, 2016. 'The Real meaning of Rhodes Must Fall.' <https://www.theguardian.com/uk-news/2016/mar/16/the-real-meaning-of-rhodes-must-fall>
- ¹⁰ Vhahangwele Nemakonde. 'Is Nompandolo the face of Fees Must Fall?' <http://citizen.co.za/news/news-national/868535/is-nompandolo-the-face-of-fees-must-fall/>
- ¹¹ Fikile-Ntsikelelo Moya, op. cit
- ¹² 'Luxemburgism - Dialectic of Spontaneity and Organisation' http://www.liqusearch.com/luxemburgism/dialectic_of_spontaneity_and_organisation
- ¹³ *ibid*
- ¹⁴ Afro-pessimism http://incognegro.org/afro_pessimism.html
- ¹⁵ *The Daily Maverick*, 14 April 2015
- ¹⁶ Walter Benjamin cited by Sami Khatib. 2015. Walter Benjamin and the "Tradition of the Oppressed". <http://anthropologicalmaterialism.hypotheses.org/2128>
- ¹⁷ *ibid*
- ¹⁸ *ibid*



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SOUTH AFRICA AND THE IORA

Feeling good without a good strategy?



Time to simply talk about economic diplomacy and the national interest has run out. A clear strategy and implementation by government and business is needed.

By Lindo Mlaba

The participation of South Africa in the Indian Ocean Rim Association (IORA) business forum and leaders' summit from 05-07 March 2017 raises questions of the relevance of all these forums for a country expected to experience 1% or less economic growth in 2017. The IORA summit is being convened under the theme "Strengthening maritime co-operation for a peaceful, stable, and prosperous Indian Ocean" to commemorate 20 years of the

association's existence, the presidency said in a statement. South Africa is the founding member alongside Indonesia and is the current Vice Chair of IORA, and is preparing to take over the Chair from Indonesia during the latter part of 2017 until 2019. The Vice Chair forms part of the IORA Troika of Ministers (Australia, Indonesia and South Africa), which is consulted on important matters and decisions within the Association. It is expected that the next IORA Council of Ministers Meeting will

take place in Durban later this year, when South Africa assumes the Chair of IORA. South Africa views IORA, comprising twenty-one Member States and seven Dialogue Partners, as the pre-eminent organisation linking Africa, the Middle East, Asia, and Australasia via the Indian Ocean. According to DIRCO, the Association represents an important region for global trade and economic development, which is growing in stature and prominence, with South Africa being one of the

leading Member States.

This is just one of the multilateral platforms that South Africa has joined, but the economic returns are minimal. Maybe I should mention a few to highlight my concern: G20, WEF, IBSA, BRICS, G77, the Commonwealth and many more. In some of these South Africa is the only African country, expected to represent the entire continent. The biggest question is whether these are just talk shops or does South Africa know or have the necessary expertise for engagement in these economic multilateral forums? The emergency meetings called by the President when the country faced economic disaster and possibility of non-investment downgrades by international rating agencies raised concerns and portrayed a fragmented relationship between government and business as Mokokera of ISS previously stated. Does it mean government and business in South Africa do not have a formal platform or strategy to aggressively take advantage of the many opportunities offered to the country through the economic multilateral platforms? Who will represent the business community in the IORA, and how are they selected? None of this disclosure is available on the DIRCO website.

My biggest concern is that South Africa continues to play in the international stage and is a member of almost all economic multilateral platforms, but it seems to have no strategy to use effectively such platforms to address issues of national interest. These economic platforms require a different strategy from our known stance of a 'moral, human rights, peace and democracy' based foreign policy. South Africa needs to clearly define its economic diplomacy approach within its broader foreign policy and this should involve both government and non-state actors. The economic diplomacy strategy needs to be based on the domestic needs of the country, better known as our national interest. The globalised world where sovereign states, in partnership with or supporting their corporates, compete for trade and investment opportunities has little or no space for a country not bold enough to place its

national interest as a prerequisite for engagement. An effective economic diplomacy with clear articulation of its national interest is a must have if South Africa is to overcome the current economic crisis.

It's hard to actually imagine a concrete and viable economic diplomacy strategy or even an effective relationship between business and government in a country where socio-economic and economic policy is forever changing. To address inequality the Reconstruction and Development Programme (RDP) and BEE were introduced. It appears that the RDP focussed far too narrowly on fiscal prudence and the reallocation of existing revenues. The government suffered from a lack of sufficiently

“Who will represent the business community in the IORA, and how are they selected? None of this disclosure is available on the DIRCO website.”

skilled managers, while the policy co-ordination and implementation methods used were not proven successful. The Growth, Employment and Redistribution (GEAR) strategy was introduced in 1996 by Thabo Mbeki to stimulate faster economic growth which was required to provide resources to meet social investment needs. GEAR was perceived by the SACP and COSATU to be favouring business at the cost of redress. The document was described as mirroring the Growth for All produced by the South African Foundation, calling for a market friendly economy.

GEAR was replaced in 2005 by the Accelerated and Shared Growth Initiative for South Africa (ASGISA) as a further development on the first two developmental strategies in the post 1994 era. ASGISA was replaced with New Growth Path (GNP) after the resignation of Thabo Mbeki, with Zuma taking the number one position in the

country. It did not stop there, as in early 2013 the government introduced the National Development Plan (NDP) 2030 as South Africa's long-term socio-economic development roadmap. These forever changing economic policies portray a country twenty years after democracy still seeking to define its national interest. This is bound to frighten business and create uncertainty for international investors looking to invest in South Africa. The question is, with the constant changes, what message is communicated in all the platforms the country engages in? Is it a new policy after every two or three years? This confusion surely frightens investors and drives them to more stable markets with clear and long term policies.

The everyday protests over service delivery, debilitating infrastructure, loss of jobs and the wave of xenophobic type attacks should be a wakeup call for the state. South Africa cannot continue being a country known to be part of every multilateral forum and a host to international events with no returns to the economy. I browsed through the DIRCO website to see if there are any immediate strategies to ensure short term returns from this gathering (IORA) and the state visit to Indonesia. I am almost convinced it's another talk shop for South Africa as it will be when it becomes chair of IORA.

Have there have been any benefits for South Africa from being a member of IORA for the last 19 years? Is this a solution to the glaring crisis facing the country or another international engagement with no returns? What are the intended economic benefits as the country will take over the chair? Is the business sector on board and aware of the opportunities that they have to grab, if any, to be presented by the country taking over the chair? Is this going to address the wave of protests listed above and the 'fees must fall' movement? Will it address the entrenched economic inequalities and the growing gap between the rich and the poor? The increasing public health budget needs? There must be an explanation of how these multilateral forums in which South Africa invests so much can help resolve these national crises.

My own observation of the last twenty years or so suggests that this is mainly about international trips for political heads and officials, hotel accommodation, flight costs, entertainment and banquets – and all these costs are met by the tax payers.

The real returns are minimal and this gives us more reasons to wonder if these are really necessary or beneficial to the country. The government does not seem to have a strategy or approach to generate returns out of these engagements. South Africa has built a reputation and presence on the international stage in the past twenty years; it's time to see the returns. But hey, it might be too late; the current reputation seeming to spring out of South Africa might erode the image of the last twenty years.

The attacks on chapter nine institutions, the Constitutional Court ruling on the President, the violent protests at universities, the images from parliament, the Gauteng mentally ill health care disaster, the rating downgrade to junk status and more negative images broadcast in the international media may repaint the image of this country as just another African country in crisis. The lavish international conferences might also suffer the consequences from concerns of safety due to images of violent protests and xenophobic type attacks. The respect and leadership once expected by other African countries from a South Africa which now fails to protect their nationals is fast fading.

Perhaps it is expecting too much from a country where there is a collision between the different arms of the state. The Deputy President, Cyril Ramaphosa, during the Pravin Gordhan and NPA saga, said the government seems to be at war with itself. The current situation playing out now between the Department of Social Development, SASSA and Parliament Portfolio Committee is a demonstration of the crisis in government. The media briefing by the Social Development Minister, Bathabile Dlamini, on 05 March 2017, and her mentioning that she cannot answer for the National Treasury is a further demonstration of a government

“The everyday protests over service delivery, debilitating infrastructure, loss of jobs and the wave of xenophobic type attacks should be a wakeup call for the state.”

in crisis. This seemed to demonstrate that Dlamini and Gordhan, regardless of both being in cabinet and from the same party, are not seeing eye to eye. Since then Gordhan has been removed as the Minister of Finance. The security cluster Ministers sounded as if they are shifting the blame to the media for creating a situation that might cause panic and a crisis.

These latest events are just the tip of the iceberg. The crisis we see in government makes me wonder if the required economic diplomacy strategy is feasible in a government 'at war with itself'. Trade and investment are said to be very sensitive to market conditions as is the currency. Investors are cautious of a market where the signs of instability are growing by the day. South Africa is at a stage where the Constitutional Court rules against the government, which is supposed to protect and uphold the constitution. The recent talks between the opposition parties to secure a motion of no confidence in the president with a secret ballot are a sign of the deepening of the crisis.

This instability is resulting in the

“This is mainly about international trips for political heads and officials, hotel accommodation, flight costs, entertainment and banquets – and all these costs are met by the tax payers.”

quality of life of those who were previously marginalised getting worse. But then who is to improve the quality of life for the poor if the liberation movement is in crisis? The media recently reported on failed attempts within the ANC to have President Zuma recalled. There have been reports of a call by the veterans for the ANC to convene a National Consultative Conference to do an in-depth and strategic analysis of the crisis the organisation is facing.

There are many signs of a looming split in the ANC preceding the elective conference. Mixed messages have emanated from the ruling party following the land issue tabled by the EFF in parliament. The Tripartite Alliance does not seem to hold, and this is demonstrated by the killings in KZN between ANC and SACP members. The Deputy President announced the minimum wage without the signature of Cosatu on the dotted line. These are just a few out of many differences in the ruling party and the alliance and the crisis facing government.

So, are President Zuma and the Minister of DIRCO joining IORA counterparts in Jakarta with a message from the government, or from a certain faction in the ANC? Is the business community joining the business forum in Jakarta with clear objectives of the national economic needs of this country? It's a pity because as much as the country participates in these platforms, there is never a report on investment gains on the tax payers' money spent. This country has paid its dues for the political and economic sanctions backing of the liberation movement against apartheid. The solution to the ever growing violent protests and xenophobic type attacks is maximisation of returns from every investment on international engagements. Time to simply talk about economic diplomacy and the national interest has run out. A clear strategy and implementation by government and business is needed. I would like to count on the current leadership to achieve this, but I think it's far from their capability as demonstrated over the years. ■

EU-SA Strategic Partnership 10 Years On

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Strategic partnerships, however, are often perceived as coming with certain political, economic, and development expectations, more often imbued with suspicions of a Trojan horse and attempts at re-colonialism.

By Lara Hierro

In Thabo Mbeki's speech to the European Parliament in 2004, he stated that 'in the period of globalisation, no country or continent can be an island'. As the EU-South Africa Strategic Partnership (EU-SA SP) comes into its 10th year we note with this quotation that the partnership was not only initiated under Mbeki's watch but was part of his architecture for South Africa's future development. It is currently one of ten that the EU has world-wide and also one cog in a larger global context that Mbeki saw even then as essential for his African

renaissance and vision for Africa. Casting aside realist assumptions about what a strategic partnership should entail, the EU-SA SP operates in a sea of other agreements, relationships, and regional organisations within a globalised context.

There has been a recent trend in South Africa's foreign policy to turn inward, and this affects its relations within the SP with the EU. Mbeki's internationalism, while instrumental in hurling South Africa into the international system, was pitted (and not always equally) against his idea of

African renewal and prioritising Africa's development. A problematic balancing act between the international and the domestic, the pragmatic and the emotional, South Africa's foreign policy endeavours were then considered conciliatory or 'quiet', and are now referred to in a somewhat derogatory fashion as 'flip-flopping'.

South Africa's evolutionary path alongside that of Africa's was and is a vision that is integral to South Africa's own *Diplomacy of Ubuntu*. It has been described as a 'butterfly', working outwards from the body

(South Africa) to the emerging powers in the 'South' (Latin America and Asia). While this may appear a logical progression, it has at the same time led to an increasingly restrictive trajectory for South Africa: in the attempt to structure such a methodical path for development, South Africa has become counterintuitively more insular and continental. This has come at the cost of denying the global reality of South Africa's geo-physical circumstances, and at the same time the possibilities of future self-realisation using the global arena.

The ambition to champion an Africa-first agenda as well as South-South solidarity has become skewed to the extent that this is the only visible narrative. This is to the detriment of South Africa's wider global context and alternative paths of development.

Africa first, Trojan horse colonialism, and the EU-SA SP

A distinct thread can be traced from what began as a low hum of anti-colonialism/anti-imperialism/anti-west, and less abrasively 'Euroscepticism' to the current discourse in decolonisation. The EU-SA SP itself has received little attention as part of this narrative, as anti-imperialist rhetoric had been levelled at the US. By implication, the EU apparently assumes itself to be included therein. While signaling a certain amount of 'guilty conscious', geographically speaking this is confusing to those in Europe for whom 'the west' is reminiscent of the cold-war era in relation to 'the east', and has no bearing on geo-location for South Africa itself.

Whatever one may think of the EU in general, or specifically in its relations with Africa and South Africa, the EU has consistently tried where it could to assist, having in mind its own ideological commitments. No less should be expected, especially as South Africa is interested in pursuing its own interests. The EU's willingness to assist is no more evident than in the current SP with South Africa, where aims, objectives, and projects are South African driven. Over the course of the partnership, they have been dynamic, keeping pace with South Africa's shifting policy expectations: since the launch of the

National Development Plan (NDP) in 2011, development objectives and the ensuing projects of the SP have fallen into line accordingly. The amount of aid assistance allocated towards these projects under the current multi-annual indicative plan (MIP) for 2014-2020 is €241 million. This should signal to South Africa that the EU is committed to honour the 'partnership' subject. Strategic partnerships, however, are often perceived as coming with certain political, economic, and development expectations, more often imbued with suspicions of a Trojan horse and attempts at re-colonialism.

There is no denying the money that has crossed over into South African projects and this in spite of the EU's own fluctuating political and economic circumstances. This aside, South Africa's external aid constitutes

“In the more recent history of the SA-EU SP under the Zuma presidency, South Africa has traversed the line between ideal partner, and rogue (African) nation.”

1.3% of its budget, and 0.3% of its Gross National Product, putting to bed, somewhat, the idea that all partnerships, and this one in particular, are compromised by one side's relative affluence over the other.

One is reminded that institutions (both formal and informal) have human beings behind them. And this is precisely the mistake that is made about the EU: there are many people behind the EU that try their best to carry out what they believe to be its good work. What emerges, however, from the combinations of the structures and the interactions of values against others it encounters, is often something entirely different. It should, however, be up to South Africa to carve an appropriate path. This it will find increasingly difficult to do with only

one ideological mirror.

It is in this context that perhaps the relevance of the EU-SA SP to South Africa is best perceived.

In the more recent history of the SA-EU SP under the Zuma presidency, South Africa has traversed the line between ideal partner, and rogue (African) nation. In its supportive role of Zimbabwe's Zanu-PF regime, it has taken a more middle line approach as in its role as facilitator with SADC, but more recently overtly in favour when declaring the 2013 elections free and fair against most other accounts, and business has continued as usual.

It would appear that this 'flip-flopping' (and perhaps it is more of a semi-deliberate hovering), seen as detrimental to the shared values outlined in the Joint Action Plan of the SP, has worked so far for South Africa with the EU within the confines of the SP as it continues to function. The EU apparently has much stamina, or commitment, depending on the perspective adopted: how the EU in the future will address this 'hovering' in the SP remains to be seen. There is, however, both a perceivable mixture of exasperation, and not a little impatience growing with what can be perceived as political point-scoring at the EU-SA SP's expense. It has become clear that while South Africa enjoys exclusivity on the continent in this manner, there are many others – pan-Africanist rhetoric aside – that would be extremely willing and less indecisive about embracing the preferential relationship and the geo-strategic advantages that such a strategic partnership has, does, and can construct.

A Child of its Time

It is hard not to place the SP in the context of its birth and the Mbeki era of South Africa's history. Both the SP overall and the Trade Development Cooperation Agreement (TDCA), which forms the SP's core, have a strong competitive market ideology as well as an economically driven focus for development; all avenues lead from here in this respect and have informed subsequent [development] projects that reinforce this ideal.

Resentment towards this economic belief system is well documented in

‘the South’ and has helped reinforce the idea of an externally led and influenced (or ‘captured’) state.

More recently a particular ‘narrative’ has emerged that combines this aspect with a deep-seated sense of betrayal. Much of what is written about South Africa’s early transition period is framed in these terms: William Gumede in his 2005 *Thabo Mbeki and the fight for the heart and soul of the ANC* has described the contrivances of the domestic and international business community prior to the ANC government taking over in 1994, as courting former presidents Nelson Mandela and Thabo Mbeki into maintaining a particular economic environment, a ‘business friendly’ one that guaranteed continued outside investment and allayed fears of an inward looking, anti-west development path seen as antagonistic to foreign investment.

To say that Europe and what became the EU in 1992 has a long history with South Africa is of course an understatement. The SP with South Africa in fact, has a long and drawn out institutional lineage that has been built up consecutively, and slotted into larger frameworks such as the Joint Africa EU Strategy (JAES) and the Cotonou Agreement with the African, Caribbean and Pacific (ACP) states. The TDCA, for example, was signed in 1999 and in 2007 formed the ‘legal’ basis for the emerging EU-SA SP, collapsing old themes and overlapping new objectives into one.

This is where cogs at the regional level fit into other cogs at greater scales in other combinations, coordinating actions driven by what is agreed and therefore assumed to be essential shared objectives, values, and interests along the way. Despite the fall-out expected from Brexit, the EU is still considered to be and remains the most ‘dominant’ source of FDI in South Africa, as well as the biggest export market for South Africa.

In 2016 South Africa concluded its entry into the EU-SADC Economic Partnership Agreement (EPA) and will replace the Trade provisions under the TDCA. The EPA has added value in that it includes additional interest for South Africa, involving the other areas of development cooperation for

the EPA region: this should at least be coherent with South Africa’s foreign policy objectives as regards regional developmental approach.

The Strategic Partnership at 10 years

The strategic partnership has, from the South African side at least, gone through one distinctive period and is progressing through its second. These logically (although not coincidentally) have corresponded to the changing presidencies and the political consequences that have arisen during those periods. The first period coincides with the Mbeki presidency, followed by a holding pattern echoed in the transition between his recall and the incoming president Jacob Zuma. Under the Zuma administration, the SP has struggled more than should be

“Despite the fall-out expected from Brexit, the EU is still considered to be and remains the most ‘dominant’ source of FDI in South Africa, as well as the biggest export market for South Africa.”

necessary to find balance between international role player and pan-Africanist, as exemplified in South Africa’s role within SADC towards Zimbabwe.

Under these circumstances the EU-SA Strategic Partnership has become an experimental space for South Africa’s domestic politics, and external/continental ambitions rather than an opportunity to craft a position for itself and Africa in international politics.

Post-2012, there has been a definite shift in South Africa’s behaviour within the EU-SA SP at a high ‘political’ level, although the actual running of the SP has appeared to continue as normal. This is in spite of the obvious embarrassment and pique experienced by the EU, caused by political point-

scoring, anti-west sentiments, and calls for aggressive decolonisation.

South Africa has been reaching out to form new partnerships and communities across the globe and now increasingly in the so-called South. However, it would be unwise to ignore or delink from a still-considerable major player in the world. The rest of the globe will not fall away or disappear simply because Africa rises; as unpopular an idea as it may be, this has to be done with the rest of the world in context. South Africa’s SP with the EU does indeed put it in a unique position and one which, if South Africa is seriously committed to encouraging an African renewal, it needs to work with and not against.

Further it must be done within the context of the wider global community at the same time and not in a linear progression with Africa first, the South next, followed by others. This it can do, but it needs to stay the course by remaining in many partnerships, at the same time: only by taking part in the growing international arena, not opting out of certain areas, will South Africa continue to take advantage of the partnerships that are offered.

There are certain points in history that once traversed, cannot be reclaimed. This may be the case with the ideal of pan-Africanism in a globalised world. Imagining the same kind of integration and institutionalism that Europe has, however, may also have passed for us here in Africa. The structural aspect of globalisation may be possible to undo, but layers of systems of belief will take more time than perhaps Africa and the South have.

As the SP completes 10 years, it is a fact that the EU, with all its ‘exits’ is still the second largest economy in the world, and according to current OECD figures contributes \$350 billion in official financing to Africa, outspending the US by \$240 billion, and China by \$255 billion: South Africa can choose whether to join in and participate with one of the most influential organisations on the planet, or try to reinvent international relations. That it has not, to date, actively sought to dismantle the basic agreements, is an indication that it is still prepared to participate. ■



Gender-Based Discrimination in the Workplace in South Africa

How can we expect the historically biased attitudes regarding women and their role in the workplace to change if we do not challenge the widespread disrespect for women and the assumption that they naturally should play a subservient role to dominant males in so many other contexts?

By Letlhogonolo Nomadolo

To understand the magnitude of the problem, it might be useful to be reminded of the unpleasant (worldwide) facts about gender which were confirmed in the UN 2012 Gender Report. It found that women:

- perform 66% of the world's work;
- produce 50% of the world's food;
- earn 10% of the income; and
- own 1% of the property in the world.

The Constitution of the Republic of South Africa, 1996, commits the state to achieve gender equality. The Constitution expresses the type of society it wishes to create, and that society is based on equality and democracy. (Currie and De Waal, *The Bill of Rights Handbook*) Gender equality is one of the rights guaranteed under the Constitution; it forms part of the country's integral system of human rights intended to ensure equality for all citizens. Equality is on its own a wide and problematic term to interpret, hence our courts decide each case on its merits.

The present democratic dispensation seeks to provide women with equal employment opportunities. However, women are still disadvantaged in the workplace because of the historic imbalances of the past, a lack of commitment in redressing power imbalances and giving women more autonomy to occupy managerial positions and a lack of programmes and funding for women's empowerment to acquire skills. (Duff-McCall and Schweinle, *Leadership and Women*, 2008)

Affirmative action measures are an integral part of a programme to promote the achievement of equality which is defined in the Constitution to include the full and equal enjoyment of all rights and freedoms. The Constitutional Court has even suggested that such measures are not only permissive but obligatory. (*National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others* (1998) This basically means that the state is mandated to promote equality, and at the same time guard against discrimination on the basis of class, gender and sexual orientation.

Constitutional and Legislative Framework

The Constitution is the supreme law of the country and any law or conduct inconsistent with it is invalid. One of the founding values of the Constitution is the achievement of equality. This founding value reaffirms South Africa's determination to build an equal and democratic state. In addition, the state is mandated to respect, protect, promote and fulfill the rights in the Bill of Rights. This obligation imposed by the Constitution must be fulfilled.

In this respect the Constitutional Court has handed down a number of judgements that have affirmed women's rights. (South African History on Line) These include judgements in favour of married women who had previously been excluded from claiming

“The fact that men are often assumed to be more suitable to handle managerial positions is inconsistent with the EEA as well as of basic human rights.”

some or all benefits from life insurance policies (*Brink v Kitshoff*, 1996), a ruling that the state was obliged to prevent gender-based discrimination and to protect the dignity, freedom and security of women. (*Carmichele v Minister of Safety and Security*, 2003)

This constitutional provision has not yet been fully achieved. Equality in the workplace appears to be largely a concept on paper with little impact on women's realities. Besides the Constitution, there are other legislative measures put in place to promote women's emancipation. This legislation includes the Labour Relations Act 66 of 1995 (LRA), the Basic Conditions of Employment Act 75 of 1997 (BCEA), and the Employment Equity Act 55 of 1998 (EEA). These provide the basis for the advancement of women to achieve gender equality in employment.

The LRA promotes gender equality

in the workplace as it states (amongst other things) that the dismissal of a worker on the basis of pregnancy or any reason relating to pregnancy is automatically unfair.

The Basic Conditions of Employment Act provides that every female employee who works for more than 24 hours per month for an employer has a right to four consecutive months of unpaid maternity leave as well as job security and that she is guaranteed the right to return to her job in the same workplace.

The Employment Equity Act 55 of 1998

The Employment Equity Act was enacted to achieve equity in the workplace. The EEA not only aims at protecting employees against unfair discrimination but also aims at enhancing and developing those who were previously disadvantaged, referred to as designated groups, (in the context of this article: women). The EEA is a measure taken by the state in recognition and acknowledgement of the equality clause. The fact that men are often assumed to be more suitable to handle managerial positions is inconsistent with the EEA as well as of basic human rights.

As part of its aims, the EEA seeks to ensure equal representation in the workplace. The EEA obliges the employer to prepare and implement an Employment Equity Plan. This plan must provide for affirmative measures to achieve equality in the workplace.

A case in point is *Naidoo v Minister of Safety and Security* (2013) where the applicant, Naidoo, an Indian female, applied for a senior position as Cluster Commander with the South African Police Services. The applicant was placed second on the shortlist and the candidate that scored the highest results was recommended for another post. As a result, Naidoo was automatically placed first on the shortlist. The South African Police Services appointed an African male who scored the fourth highest result, with the view that his appointment would address the under-representation of Africans. In this particular case, the South African Police Services had designed an employment equity plan that was not promoting equal representation in the workplace.

The South African Police Services was ordered to promote Naidoo and the court found that she was discriminated against on the basis of gender.

The Application and Compliance of the Employment Equity Act

The EEA seeks to make employers comply, with an attempt to advance the interests of the designated groups. The Act, through a labour inspector, imposes a duty to designated employers to undertake, in writing, to comply with the EEA, and to prepare and implement its employment equity plan. The EEA commands that an analysis be conducted for purpose of determining the degree of under-representation of people from designated groups in various levels of that employer's workplace. In the event there is under-representation of a designated group, the employer should come up with goals and strategies intended to achieve equity within that particular workplace. This shows that the EEA aims to identify the statistics of representation in the workplace and ultimately imposes a duty on designated employers to come up with strategies to increase the representation of designated groups.

The EEA further provides that if a designated employer fails to undertake to comply, a labour inspector may issue a compliance order. This shows that the EEA has relevant provisions to tackle gender inequality in the workplace. It also makes a provision that designated employers may be fined in terms of schedule 1 for failure to comply. If one reads through the EEA, it becomes clear that the key challenge in advancing gender equality in the workplace is not the lack of relevant laws but rather the lack of effective implementation of these laws; lack of monitoring and application of sanctions in cases of poor compliance or none at all.

Contemporary Gender Representation in the Workplace

There is an alarming gap between men and women representation in the workplace regardless of the equal availability of job opportunities or the actual equal treatment within the workplace. The 2013 global entrepreneurship monitor for South Africa report shows that there is

a gap between men and women entrepreneurs. (Salt 2014 www.hrpulse.co.za) The statistics showed that in 2013, 58% of entrepreneurs in South Africa were men, compared to 42% who were women.

It appears that the EEA is not consistently and completely complied with. In the case of *Mgolozeli v Gauteng Department of Finance* (2015), an employer had failed to draft an employment equity plan but had implemented internal policies advancing female representation. An applicant argued that he was denied a position after he had been recommended for it by the interview panel and the position was given to a

“ It becomes clear that the key challenge in advancing gender equality in the workplace is not the lack of relevant laws but rather the lack of effective implementation of these laws; lack of monitoring and application of sanctions in cases of poor compliance or none at all.”

woman. This is because the employer had an internal policy targeting a 50% women representation in senior management positions and it was argued that hiring the applicant would not have promoted this objective. Nonetheless, the court held that the employer's measures were contrary to the requirements of the EEA and the Constitution. As a result, it could not be a lawful discrimination against the applicant. This decision of the court implies that employers must prepare equity plans, and they must do so within the borders of the Constitution.

Positive decisions by the courts which uphold the rights of women

in and out of the workplace should encourage people to use the courts and seek assistance when they find that they are being discriminated against. There are many Non-Profit Organisations, civil society organisations as well as government and private sector initiatives which support individuals in the struggle for gender and other forms of equity. Change is slow, and the all-round struggle to ensure equality in the workplace and for enhancing women entrepreneurs and representation at senior management positions in the private sector has to be intensified.

Statistics also give an indication that the pace of equitable female representation is very slow and one reason for this is poor compliance. Employment equity reports indicate that there is a continued reluctance to advance gender transformation in the workplace. The trends in the 2014/2015 report remain relatively unchanged. The Acting Chairperson of the commission indicated in her foreword that the representation of designated groups was 2.9% in 2010, and there was a slight increase to 3.4 % in 2014. These figures clearly demonstrate a very slow pace towards the ultimate goal of achieving equal representation in the workplace.

The difference in terms of compliance relating to race equity between the private and public sectors, as released in the in the 17th Annual Employment Equity Report (2017) is striking, with white people occupying 72% of top positions in the former, and black people occupying 73.2% in the latter. This latest report has resulted in 192 non-compliant companies being referred for prosecution.

The 14th Commission for Employment Equity pointed out that female representation in top management was 14.0% in 2003 and increased to 20.6% in 2013. In 2007 female representation was 20.6% and then it decreased to 18.4% in the year 2009 and 19.0 in 2011 until it took a turn back to 20.6 in 2013. In addition, the 15th Commission for Employment Equity states that female representation is 20.8% which means that the increase was only 0.2% over two years.

Although South Africa has a

'balanced' representation in the National Assembly, the case is not the same in general government spheres and the private sector. The EEA introduced affirmative action measures. The ANC chose to introduce an affirmative action policy in selecting MPs and cabinet members, which resulted in an increase of women representation in the National Assembly. Today, the figure for all women in Parliament stands at 44 per cent, while 42 per cent of cabinet members are women. This places South Africa's legislature and cabinet among the top ten most representative in the world. However, not all political parties followed suit, and neither did the private sector.

After 22 years of democracy, only between 21 per cent and 23 per cent of economic decision-making positions are occupied by women, and women make up only four per cent of CEOs of private companies. (Hills 2015) It is against this background that one can conclude that it has not really been 21 years of gender transformation, but rather 22 years towards gender transformation.

Reports Analysis

The South African Human Rights Commission (SAHRC) report reflects that despite the enactment of various laws intended to promote gender equity in the workplace, the progress continues to be unsatisfactory. The Commission for Gender Equality also points out that the findings of public hearings on the implementation and compliance of the provisions of the EEA are that this remains unsatisfactory.

Further, the SAHRC report recommends that there is a need to strengthen the monitoring of compliance with the provisions of the EEA and more emphasis must be put on sanctions for non-compliance. The Human Rights Commission issued an Equality Report on compliance with the provisions of EEA by employers in both public and private sectors to promote gender equality in the workplace. This report, based on an assessment carried out in 2010-2011, makes it clear that despite the general appearance of compliance and internal policies to promote gender equity in the workplace in South Africa, practical outcomes reveal a reality of continued

neglect of gender equity.

The report adopted the view that poor compliance and poor enforcement of relevant internal policies to promote gender equality in the workplace results in failure to achieve significant progress. Therefore it is evident that dynamic and energetic changes are needed to address this issue. In addition, the Commission for Gender Equality points out that there is a problem of monitoring, implementation, and evaluation of the policies designed for the achieving of gender equality in the workplace.

However, progress is not limited to passing laws and enforcing them. We also could benefit from looking at the wide range of other factors which employers can either encourage or oppose which may enable success for

“ 14 million people live under the jurisdiction of traditional leaders. How likely are the women in these communities to have equal opportunities for education, employment and remuneration? ”

women in the workplace. An example of a private sector initiative can be supplied by Morgan Stanley Research. ('Putting gender diversity to work: better fundamentals, less volatility', 2016)

This research suggests that key areas of focus should be:

- Representation – women representation at the employee, manager, executive and director levels;
- Empowerment – presence of women in C-suite (CEO, CFO, COO) positions and board committees;
- Equality in pay – (in relation to similar positions in similar sectors and regions, taking into account various other factors – to see full description, see original document)
- Diversity policies – policies to

promote diversity on the board and equal opportunity

- Work/life Balance programmes – programmes facilitating work/life balance for women, including flexible working schemes, day care services, and maternity leave benefits.

This last point seems to be most frequently neglected, although the maternity/paternity leave situation appears to be improving.

The Comparative Perspective

Canada is a global leader in the promotion and protection of women's rights and gender equality. It also views gender equality not only as a human right but also as an essential component of sustainable development, peace, social justice and security. This perspective indicates that Canada is determined and prepared to eradicate gender inequality, and obviously this will have an impact on the representation of women in the workplace.

Further, Canada like South Africa is a member to the Convention on the Elimination of All forms of Discrimination against Women (CEDAW). In fact, Canada was one of the first countries to sign and ratify the CEDAW. Moreover, the 1982 Canadian Charter of Rights and Freedoms enshrines the principles of gender equality in, among others, employment and education. These principles are also echoed in the Canadian Human Rights Act and the 1998 Multiculturalism Act, which introduced measures to protect and promote the rights of native women and foreigners. At the United Nations (UN), Canada has worked to make women's human rights a strong focus of the Commission on the Status of Women and the Human Rights Council. Canada actively promotes the integration of women's human rights throughout the UN system.

The gender employment gap for highly-educated women in Canada was around 10% in 2000, which is one of the lowest rates in the Organisation on Economic Co-operation Development (OECD) and participation of women in the labour force was 72% in 2005. In addition, certain employment sectors such as health, arts, education and welfare have more women than men

in Canada, and this is a very progressive advancement of female representation in the workplace.

Norway had introduced a 40 per cent representation mandatory policy of female directors for listed companies. Norway is the first Country to adopt the 40 per cent mandatory legislation, and significant progress was registered in compliance with regard to female representation because companies failing to comply could be forcibly dissolved. (Hills, 2015)

South Africa should consider implementing this approach to ensure better compliance, since the current sanction of fines imposed by the EEA appears to be easily circumvented.

What else do we need?

It is clear that a set of legal, policy and other instruments exists to institutionalise and strengthen the cause of gender equality and gender transformation in the workplace. However, women continue to face discrimination and unfair treatment in the workplace.

The Women Empowerment and Gender Equality Bill was passed by the National Assembly in March 2014. Although the Bill has been referred back for further consultation in Parliament, it is an important piece of legislation that will work in support of Employment Equity Act. If the Women Empowerment and Gender Equality Bill becomes law, it will be the most radical mandatory gender legislation in the world, calling for the progressive realisation of at least 50% representation of women in all decision-making bodies. Therefore the promulgation of this Act remains critical.

The Bill still needs a lot of work, as the comments received by parliament show. It duplicates a lot of the gender relevant parts of the Acts already referred to in this article, without adding very much that is new (Vetten, 2014). The Women's Legal Centre (2014) and many other organisations raised questions about gender equality which, although not all strictly linked to employment, undermine women's equity in every part of their lives. How can we expect the historically biased attitudes regarding women and their role in the workplace to change if we do not challenge the widespread

disrespect for women and the assumption that they naturally should play a subservient role to dominant males in so many other contexts?

'The Women's Legal Centre' pointed out that

Gender inequality is deeply embedded in South African society.

This is evident in:

- *the alarming violence against women, with high levels of both sexual and domestic violence;*
- *the stubbornly unresponsive criminal justice system, despite an improved legislative framework;*
- *the racial and gendered dimension of poverty and unemployment;*
- *gender-skewed land and property ownership;*

“There needs to be a concerted effort, backed by genuine political will, to educate people to confront patriarchy and gender discrimination and support those women who are struggling to gain respect and equality, not only in the workplace but in their whole lives.”

- *culturally enforced exclusion faced by rural women, and their diminished access to justice;*
- *the persistent violation of sex workers' human rights and violence against LGBTI people;*
- *gender discrimination in the workplace;*
- *the gendered nature of the spread of HIV and AIDS.*

'Urban and Rural Women' pointed out that currently 14 million people live under the jurisdiction of traditional leaders. How likely are the women in these communities to have equal opportunities for education, employment and remuneration? 'South African History on Line' explains

that customary law gives black women the status of minors and excludes them from rights regarding children and property. Although the Customary Marriages Act of 1998 corrected this in law, the practice in reality in many cases is still unchanged. In 2004 the Constitutional Court decided that persons married according to Muslim rites could inherit or claim from the estate when the deceased died without leaving a will. Thanks to the courts – but we must listen to them.

Last year on Women's Day, the Pretoria News carried an article entitled 'what women need are equal families'. It stated:

To realise the constitutional aspiration of equality between men and women, there is an obvious imperative to continue marching and persuading employers to establish egalitarian workplaces and employment policies on sexual harassment and parental leave. That said, the eradication of an unjust socio-economic disparity between men and women will remain a dream unless unfair pecking orders in families are overcome, particularly as the family is the first place where boys and girls are taught that men and women are unequal. (Ratele and Helman, 2016)

Implementing laws and changing practices take a long time. The pace continues to be slow, but very important legal groundwork has taken place. Still more is needed, and all of us should feel responsible for making gender transformation actually happen.

To conclude, it must be noted that a major cause of the slow pace of achieving female equity in employment is the lack of compliance with the relevant legislation that guards against gender discrimination. One immediately implementable solution is that the relevant authorities must enhance their monitoring capacity and impose higher fines for lack of compliance. In addition there needs to be a concerted effort, backed by genuine political will, to educate people to confront patriarchy and gender discrimination and support those women who are struggling to gain respect and equality, not only in the workplace but in their whole lives. ■

FRESH drinking *water* FROM FRESH thinking

Using nanotechnology, we are helping rural schools create safe drinking water from unsafe water sources.



Mainstream economics is wrong; beyond the numbers

By Mohau Bosiu

A story to tell

It is a winter morning in Khutsong South, a newly developed township distinguishable by the colourful, zinc-roof-on-top, RDP government houses. MaTshepi's beauty sleep is rudely interrupted by her vibrating Nokia Asha 201 alarm clock. She fires a match and sets the candle on her bedside table alight and proceeds to the kitchen to light up her paraffin stove to boil water. It is 5:30 am, it is time to wake Tshepiso, her only daughter. She attends school in the north side of the township, they moved here two years ago, when MaTshepi's government house was released, a year after her husband passed away. 'Tshepiso, tsoha o hlape!' [Tshepiso, wake up and bath!], that is MaTshepi's sharp, high-pitched voice ringing in the tiny ears, firm but delicate, on the sides of the small, warmly wrapped, head in blankets. Tshepiso motho wa rona, our beautiful grade one learner.

Beep! Beep! It's the sound of the microbus outside the gate. MaTshepi prepared Tshepiso's skhaftin last night after cooking supper, to save time and electricity. She tucks it in her backpack, and walks her out. A kiss on the cheek, lifts her up the bus stairs, and there goes our little Tshepiso. A promise of a better tomorrow. 'Dumela ntate, Tsela.' MaTshepi greets the bus driver who replies cheerfully; 'Kgotso, MaTshepi!' MaTshepi's hand is raised in the air, waves goodbye, quickly pockets it back into her pink, floor-length nightgown and tip-toes her return inside the house, huffing air like smoke from her mouth. 'Yho, ho ya bata!' [It's cold!] she exclaims. It is a winter morning in Khutsong South. It is now time for MaTshepi to get ready for work.

MaTshepi's story is a typical example of daily life for a lot of black people in South Africa. There is a difference between access to electricity and the usage

of this electricity. People might have access to electricity but not afford to use it to serve their basic needs like cooking or, to buy electrical appliances for cooking. The cost of living is too high for poor people. Most of us spend close to half our income on transport costs and, or, accommodation. The inflation rate of poor people is thus higher than what the SA Reserve Bank and mainstream economists reveal.

When we make an effort to determine the sum total of the items in the spending basket of the poor; such as maize-meal, transport, electricity, medical-aid for some, insurance and the like, we then begin to realise the very secret some public office-bearers try hard to conceal; but ever so pervasive it reveals itself if you care to look beyond the numbers.

Many people in our country still languish under the economic nightmare of the past, while some live in opulence, often conspicuous in showing their material wealth. A slap in the face of the poor, a normalised situation. We are an unequal society. Inequality is not good for social cohesion; at the extreme, it is morally reprehensible. When we argue against inequality, we are not suggesting the sharing of poverty but the equitable distribution of growth.

If we remain in the extreme polar opposites as the rich and the poor, we are likely to see an economic regression. Violence will then be the order of the day. We have already seen signs of the advocates for violence. The people, those who are our mothers and fathers, our brothers and sisters, have not yet reached this point, where the only language of survival is violence. However, there are many who profess to be our representatives, those who like to use their learning and stature to sugar coat, a deadly virus of false knowledge. As Joel Netshitenzhe noted in his public lecture at the University

of Johannesburg on the extent and implications of inequality:

'...some of the debates are amongst the elites who obfuscate issues, some are rich, some are in fact corrupt, but they will stand on platforms and claim to represent the poorest of the poor [...]. But the poor do not have a voice [...] and as a consequence the substantive issues to do with the conditions of the poorest of the poor do not find sufficient articulation in the political debates that take place.'

There is a widening gap between those on the low end of the consumer pyramid and, those at the top end – the employers, administrators of public funds, policy makers. The executive income is discharged on an accelerated trajectory whilst bottom end workers' pay is stationary or, in some instances, on a downward spiral. The effects of this imbalance are directly proportional to the ills of our society. It does not require prestigious levels of education to deduce this fact.

We know what happens in our communities when young people are starving, without jobs, recreational spaces, educational and informative centres. It was in the township of Khutsong, not so long ago, that a gang of young people terrorised the community so much that the people couldn't take it any more, until one Saturday morning they organised themselves and burned some of the young gang members to death. Literally. Minister Des van Rooyen grew up there. He used to be a mayor of that municipality. The people once set his home alight. He fled.

We are a tenacious people. We are the ones who 'made it possible to trade in the world markets in diamonds, in gold, in the same food for which [our] stomachs yearn'. We have learned to be 'both at home, and be foreign'. We have seen what happens when one person has superiority of force, financial in this context, over another, when the stronger appropriate to themselves the prerogative even to annul the injunction that 'God created all men and women in His image.'

It is a winter morning in Khutsong South, it's the second day of the week, there goes our little Tshepiso. A promise of a better tomorrow. ■

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

THROUGH A CREATIVE LENS

Both these poems explore hope betrayed. The first speaks of hopes shattered in a political election ('Once more we played the game, In earnest we bought the sham'). And the second describes hopes and dreams stillborn in the sick reality of Soweto. Strong images evoke the anger ('Tonight there will be blood Snap! snap! The lens captures all'); and the pain ('poor women silently swallow countless fists from their spouses').

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So we tread

Alinah Segobye

And so we came in droves
Floating downhill in clumps
To dip our fingers in ink
To mark the chosen one
The prince to stave our hunger

He who should be the Face
Booked already for a game
Of golf or polo perhaps
We scream his name till hoarse
The pimps smirk in silent glee

The faceless hookers stalk
Old timers silently curse
Young turks strut in their turf
Elections, erections it's all a game
Winners will eat the losers

The quelea birds are all atwitter
Gorged with corn red beaks pursed
The locusts have swept through
We sit agog glued to screens
Counting hope chanting hate

Fake-book friends vanished
The baying fiends out in force
Tonight there will be blood
Snap! snap! The lens captures all
We cluster in shadows in the hood

Once more we played the game
In earnest we bought the sham
This time we bet on better
Now whores and pimps count their lots
We hang our heads in shame

Silently we tread uphill with purple fingers
Hearts broken words unspoken
Thirst unquenched hopes quashed
Hunger unsated and dreams sodden
In the piss of the vanquished

Alinah Kelo Segobye is a published writer of prose and poetry and has been a cultural activist for over three decades working with youth in the arts. She is an honorary research professor at the Thabo Mbeki African Leadership Institute. She previously held the positions of Deputy Executive Director at the HSRC and Associate Professor of Archaeology at the University of Botswana. Alinah's current research focuses on gender and development, heritage studies, public health, and education in Africa.



a ballad for soweto

Zama Madinana

muffled
hopes echo
from
the mountainous
clouds
of a nyaope
smoke

& dreams perish
in the bowels
of perilous
diseases

o, our youth
chained in stigma
& drooping
in a shadow
of death

in a navel
of the night
poor women
silently swallow
countless fists
from their spouses

Zama Madinana is a Ladysmith-born performance poet. He is currently based in Johannesburg where he has built his audience. At the University of Johannesburg he started a poetry society with his fellow poets. His work has appeared in three self-published anthologies, the latest being *The Womb of Time*, and in *Botsotso*, *UJ-Observer*, *The Thinker*, the *Sunday World* and *The Star*. He says "My work is about dreams, nightmares, civil wars, love and Africa".

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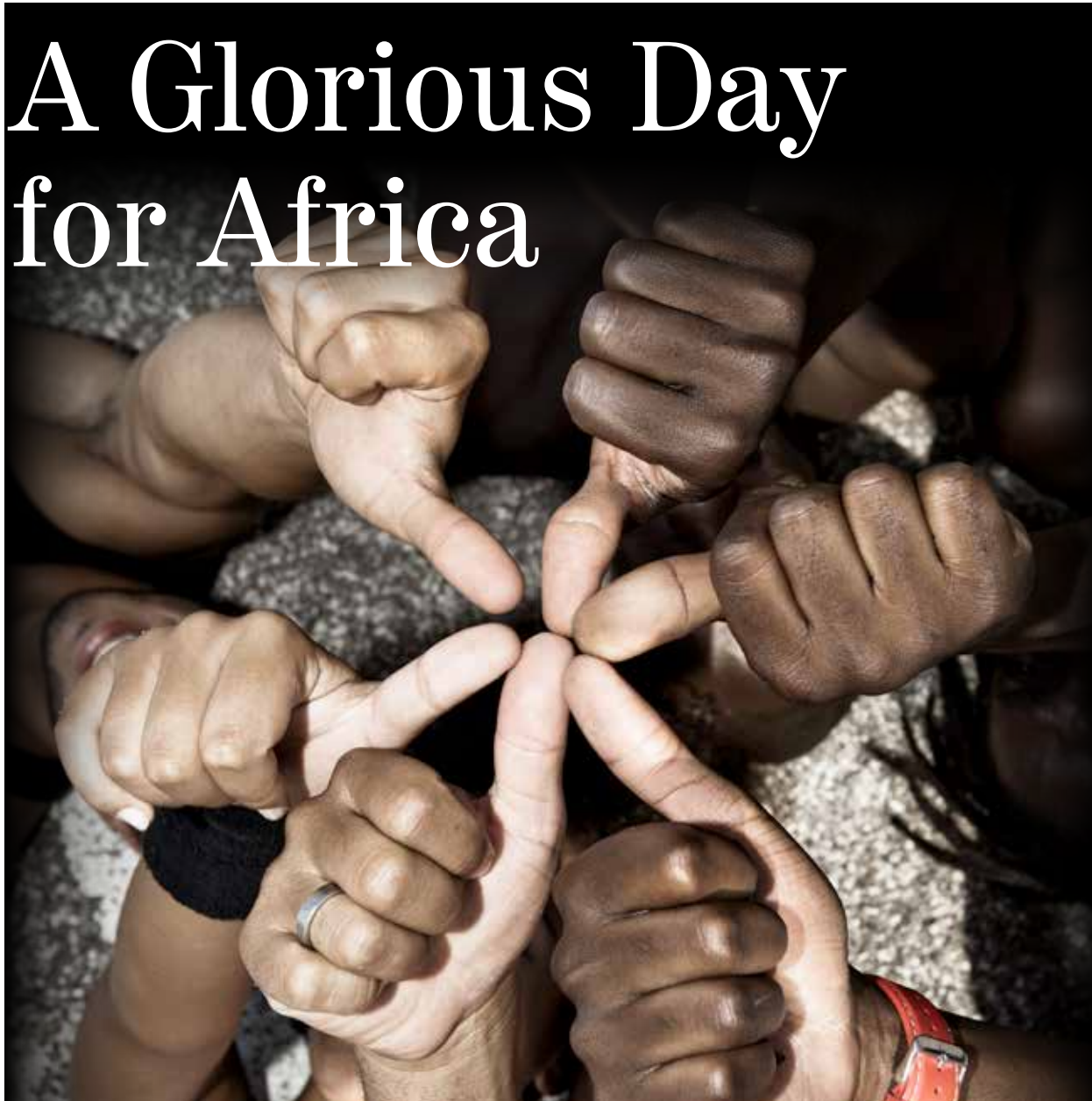
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A Glorious Day for Africa



There was solidarity among Africans. They supported each other against the reactionary forces that were puppets of the Western countries.

By Thembile Ndabeni

This year, Africa Day, 25 May, marked the 54th birthday of Africa since the formation of the Organisation of African Unity in Addis Ababa in 1963.

Africa has come a very long way. Since the freedom of Namibia and South Africa, in Africa only Western

Sahara needs to be liberated from colonial rule and domination.

With the liberation struggle and the changing global landscape Africa gradually became free, and she had allies which assisted her in this regard. The Soviet Union, Cuba, and the People's Republic of China

were important allies. The major Western powers, on the other hand, sponsored reactionary political bandits, perpetuated civil wars and exploited Africa's natural resources. UNITA, a former liberation movement was turned into a reactionary force by the imperialists as well as the

apartheid regime to fight against another liberation movement, MPLA. It took the death of Jonas Savimbi, the UNITA leader, for stability to prevail in Angola. Alfonso Dhlakama's RENAMO received support from Ian Smith and the apartheid regime. By the way it was their creation.

After liberation the challenges faced by the African states included lack of training in administration, natural catastrophes, corruption and a lack of freedom and democracy for the people. Presently most of the former liberation movements have lost their popularity among their own peoples.

From the Southern part of Africa, Mozambique and Angola were the first countries to be free and therefore inspired other countries and the 1976 students' uprising in South Africa. One testimony is the naming by Steve Biko of one of his sons 'Samora', after Samora Machel, the first President of Mozambique.

There was solidarity among Africans. They supported each other against the reactionary forces that were puppets of the Western countries. President Robert Mugabe in returning the favour to Machel once said "I will fight RENAMO till the last man". He once demonstrated being a revolutionary and over the years he has stuck to his principles. He also presented himself as an Africanist and revolutionary. This is why he accommodated the PAC and the ANC in his country.

The OAU was formed by the freed African states that had to sacrifice their freedom for those not yet free. The OAU owes its existence to the continental patriotism espoused by the likes of Emperor Haile Selassie, Kwame Nkrumah, and Julius Nyerere.

Just like in the past, challenges confronting Africa are still both internal and external. Internal challenges include maladministration, corruption, nepotism, bribery, cronyism and despotism.

In the past maladministration could be attributed to the fact that African states were newly independent and therefore lacked experience. But today many African states have been independent for over 50 years and therefore there is no excuse. Corruption is pathetic and is an insult to the

indigenous people of the continent. It projects itself as synonymous with Africa. The impact it has on governance in Africa is enormous. It also demonises the reputation of Africa.

Despotism is another monster that has been a demon in African politics because it entails militarism which is an antithesis of democracy. Externally factors include imperialism which manifests itself in various ways. The International finance institutions like the IMF and the World Bank are ripping off Africa with huge debts and loans with excessively high interest rates.

Is there a hope?

It depends on an informed and vibrant populace and on how strong it becomes when translated into civil society. From the look of things South Africa is an African state with an informed and active populace

“Most of the people who now lead the liberation struggles can no longer be trusted to uphold the principles and the values they fought for.”

translating into an authentic vibrant civil society. Of course South Africa does have challenges too. Lack of existence or visibility of civil society forces is a great challenge to most African states. The worse is the lack of Chapter 9 institutions or institutions of that kind enshrined in the constitution of the country. The issue is not semantics or copycatting but the existence and effectiveness of such institutions which are the watchdogs of democracy.

Most of the people who now lead the liberation struggles can no longer be trusted to uphold the principles and the values they fought for. When in power these are the very same people who will do anything to hold on to power to serve their bellies. Their ruthless actions have included creating child-soldiers and the raping and

maiming of women. Liberators carry out atrocities against the very same people they liberated.

Strong opposition is another medicine because it keeps those in power on their toes. South Africa makes a good example. If the leading liberators, visionaries, and revolutionaries like Selassie, Nkrumah, Nyerere, Kenyatta, Lumumba, Luthuli, Sobukwe, Biko, Tabata, Mandela, Tambo, Ngoyi, Fischer, Naude, Dadoo, Tongogara, Mondlane, Machel and Neto could rise from the dead, would they be happy? No.

Be that as it is we must soldier on, carrying the banner of optimism for our beloved continent. It is up to the people of Africa in general and not the selfish minority juntas/cliques to make it work. Leaders are not gods. If their own citizens have had enough, they must step down or be made to step down.

If they are made to step down it must be done in an orderly and democratic manner. Therefore we must not burn but build our continent for ourselves and the generations to come. Also we must not forget the sung and unsung heroes. Amongst them are children, and women. Some are disabled physically, mentally and otherwise. Others died in crossfire, in action, while others disappeared and remain missing until this day.

There are lessons to draw from our experiences and not denial which will never help but hurt and haunt us. The fact that "power corrupts" is plain to see in many of our countries that constitute our continent. There are good leaders in Africa, in power and out, but they are either not given a chance or are sabotaged. Africa's major enemy is herself. Even the outside enemy is given a space to operate by her.

With the visionaries and the likes of former heads of states like Thabo Mbeki, General Olusegun Obasanjo, Joaquim Chissano and John Kufuor we can make it, and we shall make it! Therefore happy 54th birthday, Africa!

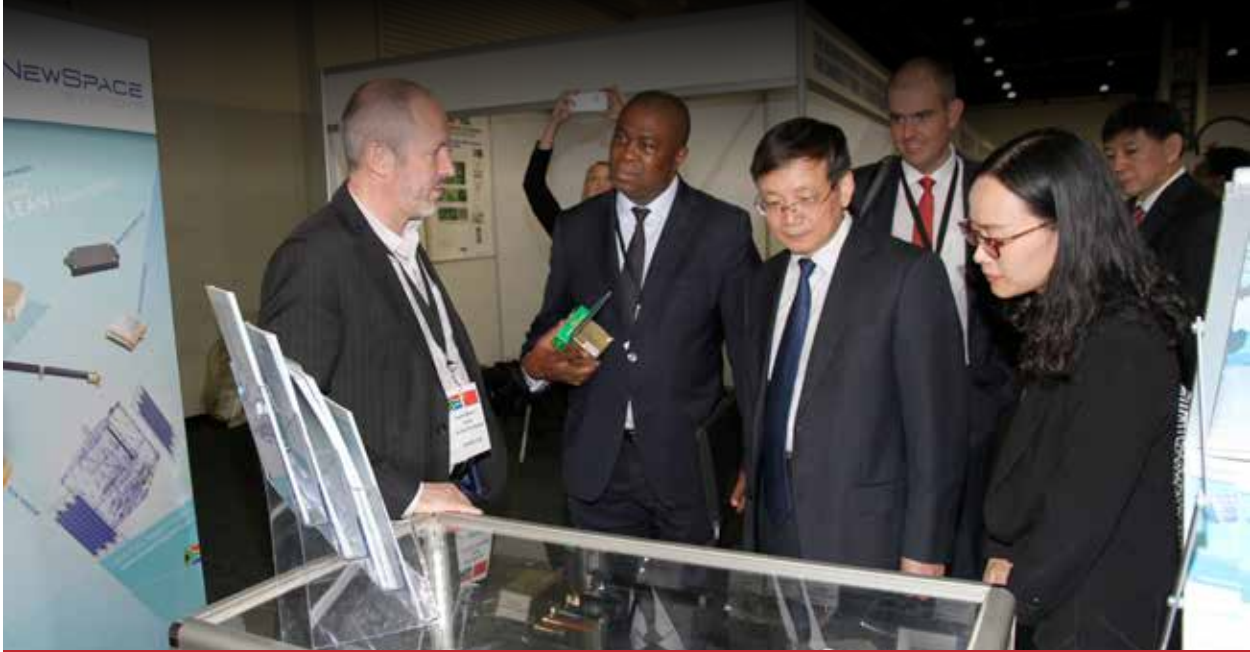
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Unity Is Strength!

Long Live Africa, Long Live!

A Luta Continua! ■

Shaping the future of South Africa's economic growth through science, technology and innovation



Department of Science & Technology Director-General Phil Mjwara during the first SA-China Science and Technology Exhibition held in October last year.

By Department of Science and Technology

In a globalised environment, where developments in information and communication technologies continue apace, innovation must remain at the heart of all government policies.

Governments exert a strong influence on the innovation process through the financing and steering of public organisations that are directly involved in knowledge generation and diffusion, and through the provision of financial and regulatory incentives to all actors in the innovation space.

The South African government has recognised the ever-changing global environment and has shifted gear to ensure the country is not left behind. Strategic plans such as the Nine-Point Plan, launched in 2015 as part of

the implementation of the National Development Plan (Vision 2030) to reignite growth and create jobs, takes into consideration the changes needed for increased growth. The Nine-Point Plan focuses on areas such as energy, tourism, agriculture, industrialisation and transportation.

The National Development Plan acknowledges science, technology and innovation (STI) as fundamental in changing people's lives for the better. It is therefore unsurprising that STI is a significant contributor to all areas in government's Nine-Point Plan, demonstrating the importance of STI to socio-economic growth. Initiatives of the Department of Science and Technology (DST) have been leveraged by other departments to enable lead

elements of the Nine-Point Plan to advance their own objectives, in areas such as growing the ocean's economy, ensuring a higher impact Industrial Policy Action Plan (IPAP), unlocking the potential of small and medium enterprises, developing innovative alternatives in the provision of water and sanitation, and advancing minerals beneficiation.

At the DST, we have sharpened the focus on how our work can contribute to the reduction of inequality, poverty and unemployment. We have identified a few areas in which we can support the Nine-Point Plan, including agriculture, the beneficiation of minerals, energy and boosting SMEs.

Agriculture is being revitalised by STI. We are using space-based

technologies and information and communication technologies (ICTs) for what we call smart agriculture. Space-based technologies are employed to obtain information relevant to farmers' planning. For example, knowing about weather patterns in advance can assist farmers in identifying and optimising irrigation frequency to increase crop yields. Early warnings of fire hazards and disease outbreaks are other examples.

ICTs allow farmers in far-flung areas to receive this crucial information in good time via their cellphones, so that they can take early action to avoid crop failure.

South Africa is increasingly exposed to the dire effects of climate change in our water-scarce region. We are engaging in research to develop drought resistant crops to help avoid food insecurity in the future.

Industry also needs input from STI. In recent times South Africa has experienced a decline in industrial activity, with manufacturing being especially affected. IPAP lists a number of challenges facing the manufacturing sector, and the DST supports several of these areas through mineral beneficiation initiatives.

The platinum group metals (PGMs), of which the country has high reserves, are among the minerals being beneficiated. The PGMs are used for hydrogen fuel cell technology (HFCT), which the DST hopes will boost the country's manufacturing capacity and competitiveness. The Hydrogen South Africa (HySA) initiative was launched in 2008 and the country is now seeing its benefits – from renewable energy to power schools in rural Cofimvaba, to partnerships with global mining companies like Impala Platinum. The latter's stationary fuel cell applications and HFCT-powered forklift illustrate how STI investments are paying off.

Going forward, through both public and private partnerships, the DST is looking to deploy more fuel cell units in public infrastructure like schools and clinics, as well as in sectors such as mining, particularly in the underground environment to mitigate against diesel particulate emissions. This will be part of the target of deploying 25 hydrogen

fuel cell units incorporating HySA technology by the 2019/20 financial year.

Even more impressive is the fact that South Africa's first indigenous fuel cell company, HyPlat (a spin-off company from HySA) has gained significant and rapid market entry into the global billion-dollar fuel cell market. HyPlat successfully launched its products in Germany last year, showing that, through sustained commitment, South Africa can deliver world-class technology that is globally competitive. As a country we can be proud of these achievements.

It bodes well for the future when one considers current research initiatives that also fall under the Nine-Point Plan. Projects like the titanium metal powder production project will, if successful, complete the local beneficiation value chain for a globally strategic metal, resulting in a new industry with substantial value addition. Titanium powder is widely used in industries such as aerospace, medical applications, transport and chemical processing where high-performance, lightweight parts are essential. Titanium powder (a precursor to titanium alloy) has become even more important because of its use in additive manufacturing (3D printing) – a cost-effective manufacturing process for complex or special/customised components, which continues to grow rapidly.

The DST is also funding the research and technology development of the "next generation" of additive manufacturing machines, the "Aeroswift", developed jointly by the CSIR's National Laser Centre and the Aerosud Innovation and Training Centre. The term "next generation" refers to a substantial increase in printing speed (between five and 10 times faster), and to the almost fivefold increase in part size that can be printed in the machine. The first flight component was printed in December 2016, and the aim is to build the first production aircraft components in 2018. In parallel, the industrialisation for the production of the Aeroswift printing machines is also under way. The substantial improvement in printing capability and build speed will open up new areas

and types of component that can be produced in South Africa, resulting in competitiveness enhancement and new industry creation.

Supporting the Nine-Point Plan's energy commitments, the DST recently launched the first South African Bioenergy Atlas. The atlas plots the country's biomass resources to assist in the exploitation of this renewable energy option. It is expected that public-private partnerships will use the information to create jobs while ensuring energy security.

As far as scaling up IPAP is concerned, the Department has a Technology Localisation Programme, which provides technological assistance to firms (large and small). This is intended to increase their capability and competitiveness, enabling them to secure contracts from state-owned companies (SOEs) like Eskom, or from multinational corporations working on contract for SOEs, for example, General Electric.

In addition to the focused technology assistance to firms which may be able to enter the SOE procurement process, the DST is also funding a broad-based technology support programme called the Technology Stations Programme. This helps SMEs to mature their technologies, prototypes or innovations, facilitating market penetration and increased turnover.

The cross-cutting STI activities that have been mentioned here are essential for building the industries of tomorrow, as well as the required human capital and skills, which are expected to change drastically as the next industrial revolution materialises.

Increased investment in STI is therefore essential for South Africa's current and future economic growth, which is the bedrock for the alleviation of poverty, unemployment and inequality. ■

Author: Department of Science and Technology Director-General Dr Phil Mjwara

The Consultative Conference is a Strategic Pillar to Revitalise the National Democratic Revolution

The call for a Consultative Conference is radical and seeks to resuscitate the old ANC tradition of consulting with communities in order to get a popular mandate from various sections of society.

By Seitebaleng Dikole

The call for the ANC to hold a consultative conference is neither new nor a historical departure for an organisation that is responsible for the fundamental transformation of society. The Consultative Conference has always served as an impetus for the renewal of the historical mandate of the organisation. Such a conference has always been able to assist the ANC in determining the political programme that is underpinned by realities, and to resolve and respond to particular challenges. This has been a source of strength and a strategic pillar of the South African revolution.

The principle of criticism and self-criticism plays a key determining role,

in the sense that it will unpack the mistakes, weaknesses, strengths, and successes of the organisation. This has been particularly important since its ascendance into political power as manifested by the Democratic Breakthrough of 1994.

Veterans of the ANC are people who gained a lot of political experience in the organisation through the hard times of exile, imprisonment, underground operations and in the armed struggle. They possess political maturity and wisdom that can be used to take ANC forward. Perhaps it was one of the reasons why the movement resolved on having a veterans' formation within its ranks.

Unfortunately the influence of a corrupt capitalist system on government and society has successfully managed to create a dichotomy between the current leadership of the ANC and the veterans. We have seen the level of leadership inexperience of many who are interested in personal gain and profiteering. These types of leaders are impatient of criticism and they cannot unite the ANC.

Even if some of the veterans are not clean with regard to corruption, it would still be difficult to conclude that calls to action by so many veterans/stalwarts are informed by business and commercial interests.

The call for a Consultative Conference is radical and seeks to resuscitate the old ANC tradition of consulting with communities in order to get a popular mandate from various sections of society. This is a good start when dealing with the structural crisis of the organisation.

Ill-discipline in the ANC is rife and is becoming uncontrollable. The organisation is undermined by members in government who ignore decisions taken within the organisation and seek to promote interests from outside the movement. In this regard the organisation is used superficially for rhetoric and lip-service, whilst under the surface it is used for nefarious activities.

The holding of a Consultative Conference at this point would help the ANC to take clear policies forward to the national conference that seeks to confirm those values and traditions of the movement which has served us so well. It is also important to review the processes which determine the selection of delegates and the management of the conference itself.

The Morogoro Conference in 1969 resulted in a renewal of revolutionary determination in the ANC. It adopted the *Strategy and Tactics* document which defines the historical mission of the ANC as well as the role-players who would assist the ANC to fulfill its historical tasks. It was not until Kabwe in 1985 that the ANC evaluated and assessed the ANC programme that had been adopted in 1969. One of the outstanding outcomes from Kabwe was the state of readiness for ANC to govern society. The conference

advanced a resolution which instructed the collective leadership to develop strategic policies such as the Cadre Policy and the Deployment Policy. At that time the Movement was nearly overtaken by the collapse of the Socialist System in Eastern Europe. However, the ANC was ready to face the challenges of operating under the conditions of legality after the unbanning of political formations by the racist tyranny in February, 1990.

The 1991 Durban conference united all forces from exile, UDF, underground and MK into a strong formation and adopted an approach for building ANC structures under conditions of legality as well as preparing itself to lead on behalf of the masses. It was a difficult period wherein the enemy waged war against the masses of people in order to undermine the support base of the ANC.

We are raising these issues because the ANC has held successful Consultative Conferences which assisted it to overcome challenges which might otherwise have torn it apart. Therefore there is a dire need for the ANC as the ruling party and the hope of the people to hold such a Conference to identify problems and challenges, and provide solutions that will earn the ANC the respect it previously held in society. Let us remember the impact of the Congress of the People, held in Kliptown, that adopted the Freedom Charter.

State and the Party

The current period of neo liberalism has already lasted more than two decades. The solidity of neo-liberalism, its persistent ability to renew itself (globally and regionally) and intensify its hold on government and society despite economic volatility and the depth of the current crisis warrants recognition and detailed investigation within the context of the Consultative conference. (For a mature analysis of neo-liberalism consult Ben Fine et al on neo-liberalism.)

The neoliberal trajectory has impacted negatively on the state and the ANC. The organisation and its cadres are highly demobilised, and their structures have become a band wagon for neo-liberalism. They are rolling back the important axiom

which says people must be their own liberators. Neo-liberalism in the state is now used to sustain as well as enhance private accumulation and the masses are treated merely as shock absorbers, and voters during elections.

The Scientific Marxist definition of the state remains relevant as ever, wherein the state cannot be defined or determined outside the borders of class antagonism which characterises a given society. The ANC has defined the South African state as developmental in nature, and seeks to rally both capital and labour to bring fundamental changes in our society as espoused within the values of the Constitution of the Republic and the Freedom Charter. However, ill-discipline in the ANC has given big capital the ammunition to entrench itself and set the agenda for the state. In our lifetime the state apparatus unleashed its power by ruthlessly murdering striking workers in Marikana in support of mining capital.

Whilst the state remains a key pillar to address the challenges of colonialism and apartheid, it is wrong for the ANC to allow processes wherein the state is used for narrow selfish enrichment by its cadres. The state has been violated by certain ANC factions to loot and divide society in a manner which has eroded its support base.

The reality of the matter is that the ANC is facing an unprecedented structural crisis. Structural arrangements are made to advance individual interests, political and financial. This can be illustrated as follows:

- A branch chairperson becomes a councillor;
- A Regional Chairperson becomes a District/Executive Mayor;
- A Provincial Chairperson becomes a Premier;
- An NEC member becomes a Minister, a CEO, and even part of the comprador bourgeoisie.

There was a particular time in the history of the liberation struggle when there was no organisational arrangement of NEC, PEC, REC and branches to advance the criminal and corrupt interest of the few or of factions. The intended purpose of structural alignment was basically informed by the fact that ANC was with the people for the people.

Indeed the call for a woman president has nothing to do with building a strong organisation but is simply a tactic to sustain private accumulation for a corrupt purpose.

Constitution and the rule of law

In the recent past many in the ANC leadership decided to undermine the rule of law and supremacy of the constitution. The constitution of the Republic remains a product of what the National Liberation Movement struggled for in almost the entire life of its social existence. Therefore there should be a platform in which the ANC demystifies its stance in deepening democracy and the rule of law. It was President Mandela who gave a good example of respecting the rule of law the time when he was taken to court by Dr Louis Lyt. President Mandela appeared before the court with a belief that the court would rule correctly on the matter. Champions of neoliberalism are masquerading as the best people to defend the constitution, whilst on the other hand ANC members have been demobilised, with the intention of treating democracy and the rule of law as something that is alien to membership. Now a consultative conference would have the responsibility to establish systems to demonstrate democracy and the rule of law within the context of people being their own liberators.

Criticism and Self Criticism

The ANC must implement the principle which Lenin wrote about in *What is to be Done?* (1902). The principle of criticism and self-criticism remains the strength for any organisation. We need to reflect on the following issues:

- Do we still need to rely on the capitalist framework to pursue a National Democratic Revolution?
- What can we learn from the results of 3 August Local Government election?
- How can we address political arrogance?
- How can we fight corruption?
- The call for President Zuma to step down;
- The call for a Consultative Conference;

- MK Council resolutions; and
- Criticism from strategic alliance partners.

The ANC has always emphasised and believed in the concept that people must become their own liberators. Lenin warned revolutionaries and their formations that “we must not abuse the word ‘people’”. Now the word ‘people’ encompasses broader social classes and social strata, rallied behind the programme of the National Democratic Revolution. There is a level of bias which has developed out of experience in the struggle for emancipation of our people. It says that the working class and the poor must be the primary beneficiaries of the NDR.

The MK commissariat needs to be applauded for calling for a political gathering with the clear interests of the ANC and the people in the forefront. The ANC should not be divorced from the people, and its leaders should be accountable to the masses. The council reaffirmed the need for ANC to go back to its glory days and reoccupy the space it has lost because of the mistakes taking place.

The state still remains a viable instrument that can be used to accelerate changes that are needed, more particularly in a form of a leap. Political accumulators are using the structures to pursue their own narrow selfish agenda. They do not care whether ANC dies or survives.

National Democratic Revolution or Revisionism?

The project for addressing the National Question in South Africa had been correctly spearheaded by the liberation alliance under the leadership of the ANC. The 1994 Democratic Breakthrough did bring about a lot of fundamental changes. The revolutionary forces always believed that the NDR should be defended, deepened and advanced. Yet there is no central driver of the NDR at a political level.

The motive forces of the revolution remains disintegrated and disunited and sections of it are captured by capitalism. Leaders of the MDM and other formations do not see capitalism as a threat to the NDR.

Therefore a platform is needed

to confront these realities and renew the historical mission of the liberation forces. The ANC will have to redefine its character in the new conditions of legality as a party in control of the state.

The fact of the matter is that the ANC has adopted the National Democratic Revolution as a key strategic programme to address the national grievances of the masses. It has also outlined key strategic drivers of the motive forces who will bring about changes. The word revolution means radical fundamental change taking development from lower to higher and more complex levels. Now if the ANC is serious about the revolution, it should roll back the influence of the market from its agenda. The hand of the market has worked very hard to corrupt leaders of the ANC.

The capitalist system has managed to create division within the strategic

“Ill-discipline in the ANC has given big capital the ammunition to entrench itself and set the agenda for the state.”

partners for implementation of the NDR. This is clearly revealed by the attitudes of Alliance Partners:

- It is apparent that many members of the SACP have lost confidence in the ANC and are now pressurising the leadership to contest elections and be accountable to its membership.
- Individual NEC members have turned into lackeys of the market and they are directly involved in the looting of the state.
- COSATU is more divided as a result of neo-liberal policies that have been adopted by the ANC and this has resulted in ANC losing key metros like Nelson Mandela Bay, Johannesburg and Tshwane.
- Women and Youth formations within the ANC remain spokespersons of the leaders, championing a capitalist patronage system. This had sidelined the participation of these

formations in driving fundamental change.

Reaffirmation of the pillars of the struggle

The proposed Consultative Conference has to assist the revitalisation of the motive forces for radical change within the tradition of NDR and Freedom Charter. This however cannot happen without correct political leadership, nurtured and well-groomed through the scientific tools of analysis (Dialectical and Historical Materialism). The conference should develop a framework for the ANC to commit itself to cadre development and more progressive pro-people economic policies and programmes. The ANC is now operating in different conditions that really demand proper planning and consultation.

Conclusion

The challenge faced by the ANC in the current conjuncture is its clear role in leading society. The results of local government elections clearly dictate a dire need for revolutionary honesty and organisational introspection. The country and the ANC remain at the crossroads. The organisation must remain a peoples’ movement and has to be close to the people always. The Consultative Conference must hear the views of different communities and incorporate the best ideas into a solid programme of action. The historical gains need to be defended and taken to the highest level. This can only happen if there is clear political will from the side of the leadership who will be identified through the Consultative Conference. This new leadership cannot be determined through the current flawed ANC structural processes. The future of the organisation should be defined outside the neo-liberal framework, and that should be underpinned by a decisive programme of cadre development. ■

References

- ‘Organisational Renewal’, ANC National Policy Conference discussion document (2017)
- What is to be done?*, VI Lenin (1902)
- Strategic Perspective Document, SACP (1995)
- RSA Constitution, (1996)
- ‘Strategy and Tactics’ Document, ANC (1997)
- State Power Debate, *African Communist* (2017) 1st Quarter, issue no 194



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