

## VC's Public Forum

### How Healthy is our Constitutional Democracy?

22 September 2009

Last night Judge Froneman very usefully reminded us that the South African *Constitution* places 4 responsibilities on all of us:

- To never permit again what happened in the past
- To uphold human dignity
- To realize also socio-economic rights, and
- To be non-exclusive in our thinking and practices.

Since 1994 there has been progress in relation to each of these responsibilities and that there have been important political, economic and social gains. In general South Africa is a much better place than it was before 1994 and we are relatively better-off than we were prior to 1994. My starting point, therefore, is that our constitutional democracy is relatively healthy.

That said, we continue, however, to be plagued by various stubborn realities and by certain ideas, conduct and practices that

- First, constrain the achievement of constitutionally enshrined imperatives and goals
- Second, thwart the extension, deepening and consolidation of democracy; and
- Third, potentially undermine our hard fought for and won constitutional democracy.

I want to exemplify these contentions by drawing attention to three issues.

The first is that of inequality and equality.

South Africa continues to be one of most unequal societies in the world in terms of wealth, income, opportunities and living conditions. Indeed, since 1994 inequality has worsened. Between 1994 and 2006 the Gini coefficient, which is a measure of income inequality, increased from 0.665 to 0.685.

During this same period, the income of the poorest 20% of our society fell from 2.0% to 1.7%; conversely, the income of the richest 20% rose from 72.0% to 72.5%. The per capita income of the richest 20% has risen much faster than that of the poorest 20%. 43% of South Africans live on an annual income of less than R 3 000 per year.

In part, these conditions have their foundations in our colonial and apartheid legacy and were our inheritance in 1994. However, the worsening inequalities are also a product of economic policies that, instead of transforming economic and social relations and contributing to structural economic change, such as widening ownership and reducing income inequality, poverty and unemployment, have reinforced previous historical patterns of privilege and disadvantage.

The second issue relates to schooling and education.

We inherited an education system powerfully shaped by race, class, gender, institutional, and geographical inequalities. Recognising this, our *Constitution* declared

the right of all 'to a basic education'. Concomitantly, various laws and policies related to education and schooling entrusted the state to 'advance and protect' citizens so that they 'have the opportunity to develop their capabilities and potential'. They also directed the state to 'redress of educational inequalities among those sections of our people who have suffered particular disadvantages'.

The *South African Schools Act*, for example, asserted that a new schooling system will 'provide an education of progressively high quality for all learners,...advance the democratic transformation of society,...(and) contribute to the eradication of poverty and the economic well-being of society'. In short, the *Constitution* and an array of laws and policies direct us to realize wide-ranging imperatives and goals in, and through, education and schooling. It is hoped that their achievement will contribute to the transformation and development of education and society.

There is a powerful link between income and equity of opportunity and achievement in schooling. 60% of African children in South Africa are from families that earn less than R 800 a month; 60% of white children are from families whose income is more than R 6 000 per month. The consequences are evident in school performance and achievement.

While we have almost universal participation in schooling, 2 out of 10 students drop-out after Grade 3; 4 out of 10 after grade 9, 6 out of 10 after grade 10 and 7.3 after grade 11. A little more than a quarter of the students that begin grade 1 complete grade 12.

‘The simple reality is that enrolment is not the same as attendance and attendance does not imply learning’.

A measure of our challenge is that in 2005 10% of our 7 000 secondary schools – the independent and Model C schools - produced 60% of all students who could attend university. 10% of the historically black schools produced a further 20% of such students. The remaining 80% of secondary schools, largely historically black, produced only 20% of students who could attend university.

We have largely failed to ensure equitable access and opportunity for students from poor families, a culture of effective learning and teaching, and effective educational leadership and management on the part of key actors.

It is debatable whether education leaders and managers and educators fully understand the importance of knowledge and education, and the serious intellectual, moral, political and organisational responsibilities associated with educating, and whether there is a full awareness of what is at stake and the implications of our choices, decisions, actions and non-actions for current and future generations and our society.

Unless our schools are urgently remade we will continue to deny millions of South Africans an education that develops their capabilities and affirms and advances their human and social rights. We will also block a key avenue to social transformation and development.

The third issue concerns the blurring of the important distinctions between political party, government, and the state and other public institutions.

The party that wins the elections necessarily constitutes the government. I am comfortable with the idea that the government should be able to deploy ruling party cadres or those it trusts as advisors and to the very senior posts in state departments.

However, any deployment of ruling party cadres to other posts in the state or other public institutions, or appointment of people into other posts in the state or other public institutions on the basis of ruling party membership, or insistence by the government or ruling party as to who should be appointed to key posts in other public institutions must be a matter of grave concern.

So too must be requests by government or political party officials for public institutions to undertake functions and activities that are of a party political nature or that advantage a political party.

What matters at various levels of the state and other public institutions are knowledge, expertise and skills if constitutional imperatives and goals are to be realised rather than party political loyalty or membership.

I am not of the view that we have any obliteration of the distinctions between party and government and the state and other public institutions, but there have been cases where calls and statements by party and government officials have suggested a lack of

understanding of these important distinctions and their potentially dangerous blurring.

To conclude: I have raised these three particular issues - massive and growing economic inequalities, dysfunctional schooling for the poor, and the potentially dangerous blurring of distinctions between certain institutions.

I could, equally have used other examples: such as inadequate health care and provision; the culture of impunity that seemingly pervades our society; patriarchy and the abuse of women, and academic freedom comprehended simply an individual right without seemingly any acknowledgement of the duties of deracialising, degendering and decolonising our intellectual spaces.

All these examples help to exemplify key challenges to our constitutional democracy.

For one, they severely compromise the rich promise of our *Constitution* and democracy. For another, they thwart the extension, deepening and consolidation of rights and of our democracy. Finally, they make clear the extent to which we have to still travel to realize the rights that our *Constitution* proclaims and to make our democracy work for all.