

PREVARICATION AND A LACK OF UBUNTU



A threat to our constitutional democracy, nation building and reconciliation

The spirit of Ubuntu, defined as the belief in a universal bond of sharing that connects all humanity and the good of the community above self interest, seems to have degenerated into little more than a distant memory.

By Archbishop Njongkulu Ndungane

The importance of using our Constitution, Constitutional Court, Public Protector and Commission for Human Rights responsibly to maintain the Rule of Law, to guarantee the protection of human rights and to sustain our democracy is self-evident to those who fought hard to attain our freedom in 1994. The words of the American Christian intellectual, Reinhold Neibuhr, “man’s capacity for justice makes democracy possible, but man’s inclination to injustice makes democracy necessary,” strikes a particular chord in this respect.

Indeed, these words have never been more germane given the volatile social situations which South Africa faced throughout 2011.

Looking back at the events that have marred the year, I am saddened to see that what has all too often been absent is the spirit of reconciliation and harmony that Nelson Mandela instilled in us when he became president. And as we observed The Day of Reconciliation on December 16, I was struck at the irony of this day as South Africans seem to have forgotten the legacy for which our past leader and so many others worked so hard to attain. Instead, many find it easier to hold on to a heritage of violence.

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Since 1994 South Africa’s role in Africa in particular and the world in general, has become influential. This is no better illustrated in our global village than the increasingly seminal role we are playing in forums such as the United Nations and our recent entry into the economic and socio-political bloc known as BRICS. In Africa, our role as a country which has social systems that attract Africans north of the Limpopo is paramount. All of these are important as we go forward as a nation.

But for us to grow in this role there can be nothing more important than the protection, sustenance and strengthening of our young constitutional democracy.

In saying this I want to emphasise that we need a broad vision for South

Africa in Africa. Such a vision must be founded on the constitutional democracy which we attained in 1994 and for which countless South Africans from all walks of life paid a high price. That we achieved such a democracy in 1994 has been internationally recognised as one of the finest achievements by a country that was being torn apart by violence at the time.

And it is the violence and destruction that we are currently experiencing through wanton destruction during protests and strikes regarding poor service delivery on housing, water, electricity, health care and education to name a few, as well as the prevarication – bureaucratic and

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otherwise - with which so many crucial issues are handled that carries a large threat to our future peace and security.

The voice of protest must never be allowed to die in any democracy, and particularly in ours. But what is objectionable is the violence and destruction of property that accompanies many of the protests we are witnessing in South Africa.

These threats to our constitution suggest that the checks and balances written into the South African Constitution, like the baby with the bath water, are in danger of being thrown out of the window with no or little regard for the consequences. These checks and balances, notably in the judiciary, executive and parliament, have proved over the 17 years of our

democracy to be generally robust and responsible. But we now run the risk, given the volatility to which I have referred, of falling into the temptation of undermining what should bind us together for the common good.

In Chapter 8 of our Constitution, the judicial system is defined as an independent branch of the government, subject only to the Constitution of South Africa and the laws of the country. It also guarantees the independence of the courts and requires other organs of the state to assist and protect the courts in order to ensure their “independence, impartiality, dignity, accessibility and effectiveness”. It is essential that the independence of this system is preserved. One’s mind cannot but recall the racially flawed franchise system of our past.

It is worth recalling a comment which Dullah Omar, former Minister of Justice, made some years ago when he said, and I paraphrase, that South Africa’s democracy operates under a constitution, and not under majoritarianism.

At the highest level therefore it should be our constitution that unites and guides us as we move forward. It is the challenge we face and that we must overcome, the challenge of championing the over-arching needs of communities and limiting the role of the individual that must unite us. South Africa does not need egocentric or power-hungry leaders – it needs leaders who can display the value of responsibility, and give mature guidance and direction within the context of the democratic institutions we have.

In short, it needs leaders who will embrace our rich heritage, a heritage that is now enriched by the effective case law created by deliberations and findings of our democratic institutions such as the Constitutional Court and the HRC, among others.

South Africa faces a crossroad in addressing the needs of our grassroots communities, expressed in the protests of those who feel disempowered and marginalised. I have always maintained that poverty is one of the most terrifying aspects of our society today and it leads to too many social problems. It robs



people of their God-given dignity.

Allow me to quote Niebuhr again: “There are historic situations in which refusal to defend the inheritance of a civilisation, however imperfect, against tyranny and aggression may result in consequences even worse than war.”

I have no doubt that it was sentiments such as these which were interwoven in the philosophy of President Nelson Mandela when he emerged from Robben Island, not as a bitter and angry man, but as a statesman revered the world over for the spirit of reconciliation and harmony which he brought.

South Africa must protect its good image – one built on that spirit of reconciliation and harmony that President Mandela left. We must work tirelessly to ensure that our role in Africa and the BRICS bloc is seen as positive.

Beyond this, the questions that have to be asked revolve around the legacy left by our leaders during their incarceration as political prisoners on Robben Island, Victor Verster and other infamous jails, as well as the

one built up during nearly 18 years of freedom. Let me remind you that as prisoners these men and women had to overcome the harshest of conditions, including torture and despicable treatment by the then authorities.

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It is with pride that I can say that those conditions were overcome because there was direction and

guidance given by the leaders of the political prisoners. As a result they had a unity of purpose that did indeed ensure the greater good of all, even in prison, and well beyond the walls of their jail cells.

And during 17 years of post-apartheid democracy even now legacies have been created, underlining the importance of protecting the democratic constitution created in the immediate post 1994 era.

So where has this heritage gone? Where are the offspring of these disciplined veterans, these disciplined former political prisoners? Where are these young men and women who should have learnt from them?

There are peaceful and orderly ways of ensuring people’s legitimate grievances are heard with dignity instead of the sometimes destructive ways in which protests are conducted.

The risks we face are not confined, however, to the violent actions on our streets to which I have referred. It is no less a risk when one sees the introduction of “secrecy bills” and allegations that the judiciary is hostile

to the government. Curbing freedom of speech and expression was one of the elements that closed down democracy in the heyday of apartheid. No less so at that time was the composition of many parts of the judiciary when some judicial officers simply played yes-man to Nationalist Party rule.

Debate regarding issues such as freedom of speech and the judiciary must be measured and it must be recognised that protecting those rights is key to the success of our democracy. These checks and balances which are there for people to use should not be at risk of being gradually closed down.

Having said that, let us also understand that in this Information Age in which we live, protest of whatever nature can be infused by the social media. One need look no further than the recent justifiable revolutions in North Africa to recognise and understand this. It serves to emphasise what happens when constitutional checks and balances, and a commitment to reconciliation and harmony – especially by leaders in influential positions - are not honoured and thus do not become an integral part of our social milieu.

It is germane therefore to remind ourselves that we live in a country where there are more cell phone SIM cards in circulation than people. Latest figures show that four out of five poor people in our land already have cell phones.

Let me again reiterate that we are a constitutional democracy. This means we are a free and open democracy. This distinguishes us from many African states and, of course, others in the world as well.

The question that we have to ask is what is necessary to stop the hurt and harm being caused to our society; what has to be done to reverse the process in which voluble people seek to demean and humiliate the legacy of our past leaders?

The debate to which I have referred should also be measured in the way in which our leaders label people. For instance, some of the most respected people in high office have been labelled as anti-revolutionaries – people who were actively involved and suffered grievously in the struggle for liberation.

We need also consider the role

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of our Chapter 19 institutions, such as the Gender Commission and the Public Protector, to name but two. It is appalling that South Africa can have an open debate about the heinous situation in which the despicable practice of “corrective rape” is carried out on lesbian women, but there is an all but deafening silence from influential leaders in our political life about this evil.

As for the Public Protector, given recent reports following investigations by her office, one has to ask whether this institution is being paid the respect required. It is encouraging that the President has finally acted on some of the findings of this office, and this is to be welcomed.

These are only a few examples, but the questions that present themselves when one starts to consider whether their roles are being adequately fulfilled are sufficient to lead one to ask whether our political leaders take our constitutional democracy seriously.

Together with the reconciliation

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and harmony which I have identified as the legacy left to us by President Mandela, comes another critical value of harmony - that of mutual respect.

In large areas of our society we have lost respect for the human values that contribute to the common good of everyone.

This includes a loss of respect for the importance of a sound and productive work ethic, exemplified in a policy of deploying people to fulfil executive and other important functions for which they are simply either unqualified or under-qualified. It is common cause that such deployments occur because of political party affiliations.

Our socio-economic and political strength will be increasingly undermined and weakened if such a deployment policy persists.

This country will only grow and prosper if we are able to move beyond the policy of the deployment of people simply because they are politically correct; and move to one that recognises the potential that exists in every South African irrespective of who they are. We need to recognise that political credentials by themselves do not build houses, alleviate poverty, put food on the table, or create jobs. We need a strong, professional civil service that has the proficiency to address these crucial matters for the common good.

What is required is leaders in the political, economic, business and religious spheres; leaders who shun the cult of individualism and embrace the potential of a nation united, not just for the good of our country, but of Africa as a whole to eschew this damaging deployment practice.

We need to expend our energy in optimising the opportunities that South Africa calls us to seize. South Africa requires a growing practice of reconciliation and harmony, and to build on its constitution and rich heritage.

What is also needed is for faith communities and civil society to work hand-in-hand as they did in the struggle for freedom and justice, in opposing the erosion of our Constitution. A strong force will be created should faith communities and civil society also partner with the private sector.

Restorative justice is an important concept here, bringing not only an absence of hostilities but bringing all sides together, so that together they can forge a new peace that is stronger, deeper, just, stable and lasting. In addition, good governance, respect for the law, the just exercise of power – all contribute toward the effective exercise of democracy.

It is important to note that promises premised on prevarication have no place in a society which urgently needs to resolve the challenges that become more serious as ordinary people at the grassroots level are exposed to many examples of inequality on a daily basis.

Political promises must be honoured. And our country must avoid falling in the trap of prevarication. It reflects an inability on the part of so many in government who see the need to do good, but fail to *implement* these visions in full, as well as a failure to *capitalise* on what has already been achieved.

African Monitor's Development Support Monitor (DSM) predicts that over the next five years Africa is likely to take the lead and outpace Asia following an unweighted average of countries' growth rates that was virtually identical in Africa and Asia in the last decade. For South Africa to continue in its unquestioned role as the economic leader on the continent, it needs to open itself up to the possibilities, invest in the right areas such as agriculture and the informal sector, and address the issues to which I have referred.

Throughout my career, I have encouraged people to be self-reliant and self-sufficient and it is pleasing to see that people are realising that they must stand up for themselves. By acquiescence, the oppressed contribute to and affirm their oppressor, whether they know that or not, acknowledge it or not, or do it consciously or unconsciously.

Through the various poverty hearings *African Monitor* has conducted over the years, we have time and again heard from the grassroots citizenry that they want to be active participants in decisions and processes that may generate their own sustainable livelihoods. There is a strong call for an increase in economic opportunities for

grassroots communities and the need and right to self-determination and self-actualisation.

Poverty is one of the most terrifying aspects of our society today, leading to many social problems. It robs people of their God-given dignity. Against the backdrop of non-delivery for the poor, and the dire need for programmes that empower them to reach their potential, ordinary people also see the morass of

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misuse of money by public institutions, maladministration and, worst of all, graft and corruption amongst public representatives and even men and women of the cloth. Unsurprisingly, people begin to doubt the sincerity of leaders in all spheres of our life.

The recent unrest in North Africa and indeed South Africa are indicative of the frustration and anger people experience when excluded, ignored and due to the prevarication of promises. These contain lessons that should be heeded the world-over and also, of course, in our own country.

Africa is on the brink of a major development breakthrough; a momentum that is well-merited and

anchored in solid foundations sufficient to carry the continent forward at the necessary pace. Such optimism could be described as a new dawn or as Africa's moment. South Africa should be in the forefront of that moment.

By giving the grassroots communities a meaningful stake in our country, putting in place foundations that will satisfy the needs of our poor and actively working on the protection of our constitution, policymakers, business leaders and civil society will find that the greatest economy on the African continent will begin to flourish.

All South Africans should work collaboratively in a social compact towards such a goal that will benefit everyone equally. We need to collectively engage to ensure that every South African has a source of income, a roof over their heads and access to quality education and health care, and has the capability and means to pursue their dreams in a peaceful environment.

When ordinary South Africans dream, they do not talk about acquiring copious amounts of wealth, they talk about feeding their families. They rarely talk about economic growth or improved exports when discussing what they aspire to. In a democracy, citizens elect the state to be custodians of the nation's resources and to lead and coordinate the process of meeting its citizens' needs. The state cannot do this successfully without listening carefully to what the grassroots are saying in order to gain a good understanding of the 'will of the people'. Solutions to South Africa's problems must come from the people of South Africa and not just its leaders.

In addition to protecting our Democracy by holding leaders accountable for the use of our resources and the direction South Africa is taking, we need to engage in activities that build the nation and improve productivity. We need to restore mutual respect between individuals. We need peace in place of conflict, forgiveness in place of enmity, reconciliation in place of division, acceptance in place of rejection, confidence in place of fear, faith in place of doubt, joy in place of sorrow, and hope in place of despair. ■