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**THE
TORTUROUS
ROAD TO A
NEW DAWN
FOR KENYA:
LESSONS
LEARNT**

**CELEBRATING
100 YEARS OF
SACU**

**THE ANC YOUTH
LEAGUE:
LOST IN THE
HIGH SEAS?**

**ANALYSING
THE
MARRIAGE
BETWEEN
THE DA
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The Torturous Road to a New Dawn for Kenya: Lessons Learnt



Post election violence in Kenya Photo © martin.ndugu/flickr

By Peter Kimemia

On 4 August 2010, just over 12 million Kenyans participated in a referendum to decide whether to accept or reject a new draft constitution. An overwhelming majority (about 69%) voted in favour of the ratification of the new laws culminating in a colourful promulgation ceremony that happened at the historic Uhuru (freedom) Park just outside the Nairobi CBD on 27 August. Those who are familiar with Kenyan politics of years gone by would attest to the assertion that the ratification of a new constitution following an exceptionally peaceful voting process was not a mean feat. In any case, the most recent general election prior to the just ended plebiscite had ended in an unprecedented spate of organised violence that left over 1000 people dead and another 600 000 internally displaced. The agitation for and the process of constitutional review in Kenya took at least two decades (perhaps one of the most protracted in the world) and along the way, people were maimed, detained without trial and numerous lives were needlessly lost in the hands of a paranoid, dictatorial rulership of one Daniel arap Moi.

There is a school of thought that believes that Moi genuinely, albeit wrongly, construed the agitation for change as an affront to him as a person and not as an inescapable necessity and reality in a changing world especially following the perestroika in the former USSR and the collapse of the Berlin

Wall in 1989, which symbolically marked the end of the cold war era. As a result Moi grudgingly gave in to some farcical alterations in the constitution that merely restored, in 1991, a multi-party system without changing other enabling pieces of legislation. Predictably, opposition politicians were hoodwinked into participating in elections that for all intents and purposes were bound to be a sham due to the playing field being heavily skewed in Moi's favour. The marginal adjustment to the constitution had of course been preceded by massively bloody skirmishes on 7 July 1990 (popularly known as Saba Saba day) when opposition leaders and supporters attempted to hold a banned rally in the heart of Nairobi to demand change. The Nairobi protests were replicated across the country and the government reacted violently; the aftermath was a trail of destruction, loss of lives and detentions without trial.



In the multiparty election that followed in late 1992, courtesy of a fractious opposition, Moi's dirty tricks and widespread rigging as well as bribery of voters, the ruling party romped back to power with a paltry 36 percent of the vote - much of which was stolen or coercively obtained from terrified voters in certain regions. The vote was anything but fair and for the first time in Kenya's history it was preceded by attempts at ethnic cleansing aimed at punishing communities perceived to be pro-opposition. However, the significance of Moi's victory lay in the implications on the constitutional review process. The status quo served him well as it gave the ruling party a blank check to do as it pleased. The then ruling party, Kenya African National Union (KANU) frequently raided the opposition benches and successfully bribed Members of Parliament to defect and support it. This weakened the agitation for change and in the end, as quite a few of the opposition politicians succumbed to the politics of carrot and stick, the church and civil society formations increasingly took the lead in demanding for change.



Post election violence in Kenya Photos © martin.ndugu/flickr

However, it was only on the eve of the next elections, five years later in 1997, that opposition politicians largely renewed their loose alliance with the church and civil society organisations in an effort to strengthen the demand for change. Again, through a combination of coercion and outright corruption and rigging, Moi and the ruling party "won" the subsequent elections having hoodwinked the opposition to participate in spite of threats of boycott over the stalled constitution review process. Prior to the 1997 elections, mass protests, fraught with violent confrontations and a bit of International pressure, had "persuaded" Moi to accede to minimal changes. These brought about a deceptive semblance of a levelling playing field for all political parties. The next five years were characterised by continued agitation from civil society for far-reaching constitutional reforms and also a significant amount of mistrust among the forces of change. Civil society largely remained suspicious of politicians, because 1997 was the second time they dropped the ball and succumbed to Moi's cajoling to participate in a flawed electoral process before overhauling the constitution. The Church and civil society formations felt that opposition politicians were more interested in gaining power than pushing for fundamental changes in governance. On their part, political parties were participating in the elections in the hope that they would trounce Moi and KANU and, then, supposedly embark on a comprehensive review of the constitution. However, their disunity repeatedly made it easy for Moi to rig himself back to power. It was only in late

2002 when Moi was going into retirement that the opposition joined forces and eventually won the elections.

However, the triumphant opposition alliance was short-lived and disagreements over power-sharing soon spilt over into the constitution-making process. The promise to deliver a new constitution within the first 100 days in power was thrown aside as ideological disagreements over the system of governance to adopt took centre-stage. The key parties to the ruling alliance were the National Alliance of Kenya (NAK) and the Liberal Democratic Party (LDP). The latter was a late entrant into opposition politics having only parted ways with Moi months before the 2002 elections after differing over his choice of Mr Uhuru Kenyatta as his successor and KANU's flag bearer. There were many reactionary forces in an alliance that had promised the electorate a quick conclusion to the constitution-making process. In a divisive referendum in 2005, over a draft that had been a product of much acrimony, a section of the cabinet successfully campaigned against the adoption of the draft. In many ways, the divisions that were sowed in the run-up to that referendum, followed by the firing of the section of the cabinet that had campaigned against the draft constitution as well as an unbridled spate of negative ethnic mobilisation contributed to the bloody mess that was the aftermath of the 2007 elections.

Out of the post-election crisis, though, came an internationally-aided resolution of the conflict, which gave rise to the

formation of the Grand Coalition government between the Party of National Unity (PNU) led by President Mwai Kibaki and the Orange Democratic Movement (ODM) led by Prime Minister Raila Odinga. The National Unity government was anchored on a raft of mutually agreed-upon reforms chief among which was the delivery of a new constitution. Kenya chose inclusivity as well as widespread public consultation and participation; the aim of which was to produce a set of laws with as broad acceptance as practically possible. Though acrimonious at times and occasionally threatened by the possibility of collapse, the determination not to fail and the prospects of retreating back to the precipice appear to have provided the much needed impetus to succeed once and for all.

Among the key provisions of the new constitution are a new, more elaborate Bill of Rights, the decision to adopt a purely presidential system rather than the distorted hybrid system that was enabled by the old constitution, devolution of power, dual citizenship, a complete overhaul of the judiciary including the establishment of the Supreme Court, reforms in the security and policing services as well as the creation of strong

institutions of democratic governance. As the euphoria associated with the promulgation of the new laws dies down, the hard part - the implementation of the new constitution - has started to gain steam, but the road ahead is set to be bumpy and enormous challenges will have to be overcome if the country is to enjoy the promises of better governance and development contained therein.

Firstly, although Kenya has always had a two tier government (Central and Local Governments) the latter has always been weak and served

largely as appendages of the central government. The devolution provided for under the new constitution leads to the abolition of the eight provinces and the creation of 47 counties. These will be led by elected governors and will have some measure of political and economic autonomy. Already politicians are finding new areas of disagreements regarding the degree of such autonomy from the central government. While some interpret it more in terms of greater economic freedom, especially in the prioritisation of a county's specific development projects and in the usage of devolved funds, others prefer to interpret it more in terms of political autonomy. This is no small matter in the Kenyan context, because talk of political autonomy has always been a facade for more sinister designs associated with parochial politics of exclusion on the basis of ethnicity, which could easily spark needless violence.

There is also the question of the viability of certain counties due to natural resource and human capital constraints. In the short and medium terms, chances are that rural counties, especially those in the peripheral, arid and semi-arid regions, are likely to face real difficulties in this regard. However, a careful utilisation of the equitably shared devolved funds may

eventually help such regions to develop, although this has to be accompanied by aggressive and creative ways of engendering internal wealth creation.

Moreover, although it is certainly true that democratic decentralisation has the potential to enhance public participation and faster development at the grassroots, there is always also the real possibility of local political elites aborting such progression through corruption and ill-advised rent-seeking exploits. One way of guarding against the decentralisation of corruption and poor governance is to ensure that county and national oversight institutions are strong and committed to the public participation imperative provided for under the new constitution. This will ensure that decisions at the county level are reflective of the citizen's governance and developmental aspirations.

Secondly, although arguably, the devolved governments hold better promises of more democratic governance, the envisaged huge bureaucracies and numerous holders of political offices including governors, senators, members of the National Assembly as well as those of the Counties Assemblies will constitute a significant drain on scarce financial resources, which would otherwise be utilised on development projects for the benefit of the communities. The huge recurrent expenditure might turn out to be the Achilles heel for numerous counties. The downside for this is that under such circumstances the autonomy to chart own development agenda is thoroughly compromised.

The electoral reforms under the new constitution have also increased hope for freer and fairer elections and the avoidance of acrimonious disagreements over voting outcomes. A presidential candidate is required to pick a running mate and to only be declared a winner if he garners at least 51 percent of the vote, besides getting 25% of the vote in at least 24 of the 47 Counties. This raises the bar for aspirants, but also provides for a run-off in the event that none of the candidates clinches the threshold in the first round of voting. This would help obviate indeterminate conflicts as well as the possibility of the country being led by a president with doubtful legitimacy owing to inadequate support.

A key lesson learnt in the Kenyan constitution-making experience is that political will is crucial for a people-driven outcome to be achieved. As a negotiated instrument for guiding governance and development, a constitution can only gain acceptance if the process reflects a broad participation by a wide range of stakeholders. This though may not always be the quickest route through which to make a constitution. Moreover, it is practically impossible to come up with a constitution whose every clause will attract support by all. It is nevertheless crucially important to allow for as broad a consensus as possible. More importantly, the Kenyan experience demonstrates that it is possible for less developed countries to devise democratic processes and run free and fair elections efficiently and devoid of unnecessary conflicts. A lot of work still needs to be done on the Kenyan democratic project, but after two decades, a huge hurdle has been cleared and what remains is for individual citizens and groups to remain vigilant and ensure that the constitution is fully implemented and good governance entrenched. For as Thomas Jefferson counselled: the price of liberty is eternal vigilance. T

“A key lesson learnt in the Kenyan constitution-making experience is that political will is crucial for a people-driven outcome to be achieved.”

Analysing the Marriage between the DA and the ID

By Nontando Ngamlana

Following its triumph in 1994, 1999 and 2005, the African National Congress (ANC) was again returned to power in the 2009 general elections, this time with almost two-thirds of the vote which translated to an equally massive representation at the National Assembly. This result appeared to reinforce analysis, which suggested that the ANC was becoming 'dominant' and less likely to lose any electoral contest for national power in the foreseeable future.

This in turn aroused fears that the ANC might become increasingly unaccountable, and perhaps increasingly arrogant in its use of state resources. The post-election period saw a robust debate in South Africa on the role of opposition parties, especially given their state of fragmentation.

A number of questions started to be posed:

- Should the opposition parties seek to combine; if so, along what lines and around what principles?
- How should they carry out their opposition task?
- Is there danger that unity amongst particular opposition parties might bring about a further racialisation of South African politics?

Over the years as the ANC continued to win the elections with an overwhelming majority, opposition parties became even more fragmented than ever before. The floor-crossing legislation introduced in parliament further put the opposition parties at a disadvantaged position. The legislation allowed for a member of the National Assembly and provincial legislatures to become a member of another party whilst retaining membership of the Assembly or that of the provincial legislature.

This had a negative impact on smaller opposition parties most of whose members crossed the floor to join the ANC where they perceived better opportunities to be - a greener pasture - than the small opposition parties they were from. In turn, this weakened the voice of opposition parties in parliament while the ANC grew stronger and less accountable.

Since the 2009 elections, opposition parties have been seeking a common ground and evaluating the possibility of stronger future cooperation. This became more evident with the support that opposition parties afforded the Congress of the People (COPE) around the time of its formation. Patricia de Lille, leader of the Independent Democrats (ID) has always led the debate on unifying opposition parties in South Africa. In 2008, she stated that one of the major problems in South African politics had been a complete failure of accountability. She alluded to the fact that politicians have not been held

accountable for their promises, ministers have not been sanctioned for non-performance, and no action had been taken against corruption.

One would see truth in De Lille's analysis of the degeneration of responsible leadership on the part of the ruling party with the complete failure in governance when it came to the electricity crisis and the criminal justice system descending into chaos, the disbanding of the Scorpions, escalation of corruption and poor protection of whistle-blowers, introduction of controversial and oppressive legislation, such as the protection of information bill, being some of the incidences that prove the poor state of affairs in our government.

The need for a stronger opposition has since then taken cen-

"The marriage between the DA and the ID comes as no surprise."



Patricia de Lille and Helen Zille at the Democratic Alliance Federal Congress 2010 Photo © The Democratic Alliance

tre stage in the political discourse, at least in white opposition circles. The discussion concentrates on the situation in parliament and does not take into account opposition from beyond parliament.

The marriage between the Democratic Alliance (DA) and the ID, therefore, comes as no surprise. The DA and ID reached an understanding which would see the ID merge with the DA by 2014. These parties believe that the merger would create a stronger opposition, which would become the ruling party, with time. According to the DA leader Hellen Zille, the main goal of the merger is to offer a united electoral challenge to the ANC. One therefore would ask if this should really be the goal and aim of the DA as the opposition party rather than the enhancement of the quality of our democracy and to hold the ruling party to account.

Seemingly, the DA views itself as an official opposition to the ANC merely because it opposes almost everything that the ruling party does. If the past national elections are anything to go by, the DA is no longer content with its position as the lead opposition party, but it is gearing itself to take over from the ANC. Political commentator, Howard Barrel proclaimed that 'if the first duty of an opposition party is to oppose, or at the very least test government policy at every turn, its second is presumably to become a ruling party. And as Barrel observed, none of the opposition parties appeared to have any chance of replacing the ANC as government any time soon.'

Analysts of the political discourse in South Africa argue that if the marriage between the ID and the DA is based on the premise that they are to rule in the near future, then it is founded on a shaky ground. What raises concern in this marriage is the fact that fundamentally, these two organisations differ in ideology. Before the merger, De Lille had been a strong critic of both the ANC and the DA. Speaking on their interpretation of their position as an opposition, De Lille had stated that unlike the DA, the ID had never felt comfortable with the idea of 'opposition'- the idea that their existence was based on opposing something. She claimed that the ID was founded on the basis of positive values; of standing for something as opposed to against something.

The memorandum of understanding signed by the DA and the ID will see a gradual merger of the two parties and both parties will contest the 2011 local government elections under the banner of the DA. A formal merger will only be possible after the 2014 national elections, as constitutional amendments that abolished the floor-crossing would put ID members at risk of losing their seats in provincial legislatures and parliament.

In terms of the merger, elected representatives of the two parties will immediately start attending each other's caucuses, while a joint committee of DA and ID representatives will oversee finances. An 'appropriate number' of ID representatives would be co-opted onto the DA's highest decision-making bodies such as its National Management Committee, Federal Executive and Federal Council.

Most political analysts see the merger as a survival strategy for the ID after it took a beating during the last general elections, winning less than one percent of the votes and retain-

ing only four of its seven seats in parliament. Meanwhile, the DA increased its political holdings, gaining 17 percent of the vote. The general belief therefore is that instead of watching her party die a slow death, De Lille made a strategic move to merge with the DA. Analysts, however, claim that this move will not necessarily strengthen the DA or even increase its membership. Infact, it is believed that it might have a negative impact.

"It is not clear how long this marriage will last, but what is clear is that the DA is positioning itself well as the biggest force in opposition politics in the country."

Some ID members may lose faith in De Lille and feel let down and therefore not join the DA. For a long time the ID had been opposed to most ideological positions of the DA and to the anti-ANC stance that the DA had always held in its attempts to unseat the ruling party. The differences in the two parties have always been strong and therefore many ID members may not be won over to the DA that easily.

The alliance is likely to boost the opposition's chances of taking control of more municipalities in the Western and Northern Cape, and in holding on to the Western Cape in 2014. This was evident during the recent by-elections in the Western Cape local municipalities where the DA won a majority of the votes in most local municipalities over the ANC. The ANC's support amongst coloured voters in the Western Cape - even in rural areas - has collapsed dramatically. The ANC has become an African party with very little support amongst members of other race groups. Whether this has something to do with the behaviour of the notorious Julius Malema is not clear. What is clear from the by-elections is that in the Western Cape the ANC has alienated non-African black voters.

The DA seems to have made some gains amongst African voters; these gains are more pronounced in small rural towns than in big cities. The DA still has a lot of work to do to convince African voters that it could possibly represent their interests. The DA is well aware of this and the merger happens at a time when it is struggling to reshape its image as a party serving white and minority interests. Therefore, it sees such arrangements with smaller opposition parties as a means of extending its electoral influence into the townships. The DA is also talking with COPE but these talks have stalled since COPE's descent into in-fighting and court battles. Besides, COPE must get a mandate from its members first. The UDM remains sceptical of the merger and like all of us, continues to watch the space.

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It is not clear how long this marriage will last, but what is clear is that the DA is positioning itself well as the biggest force in opposition politics in the country. This may well be exactly what we need to get the ANC to refocus, and to realise that it should be accountable to the people. However, if the opposition hopes to unseat the ANC in the foreseeable future, the alliance must be broadened and confidence building intensified. τ

Implications of the Proposed Media Tribunal

By Noxolo Kabane

The current debate on the establishment of a Media Appeals Tribunal as a tool to offer a balance between the constitutional right of media freedom and the right of privacy, and more importantly other rights and values such as human dignity, is becoming a controversial and interesting topic to deliberate. However, there is need to understand the genesis of the current debate in order to be in a position to make an informed contribution. For instance, what does the proposed Media Appeals Tribunal seek to achieve.

Currently, the Print Media is supposed to be self-regulated under the Press Ombudsman, a body it established and funds. The Press Council, the Ombudsman and the Appeals Panel are self-regulatory mechanisms set up by the print media to settle disputes between newspapers and magazines and members of the public over the editorial content of publications. According to the media, this mechanism is based on two pillars: a commitment to freedom of expression, including freedom of the press, and excellence in journalistic practice and ethics. But there is another school of thought that argues that this self-regulation mechanism only serves the interest of the media as opposed to serving the interest of the broader South African society.

At the 52nd ANC Conference held in Polokwane, having observed concerns raised by a number of citizens and complaints from people who have been victims of allegedly unfair and unsatisfactory decisions of the self-regulatory body, the ANC resolved to investigate the possibility of establishing a Media Appeals Tribunal (MAT). The proposed MAT was meant to provide a platform for citizens to be fairly treated through an independent process supported by public funds and accountable to the people through parliament.

“The move to establish the Media Appeals Tribunal is synonymous to interfering with the freedom of expression and freedom of the media as guaranteed by the Constitution.”

The ruling party also added that in their view the discourse on the need for MAT should be located within a proper context. It has to be understood as an initiative to strengthen the human rights culture embodied in the principles of the constitution and an effort to guarantee the equal enjoyment of human rights by all citizens. Further, it would legalise and strengthen the work of the press ombudsman.

In the document titled *Media Transformation, Ownership and Diversity*, the ANC claims to support this initiative, because



they believe that the creation of MAT would strengthen, complement and support the current self-regulatory institutions (Press Ombudsman/Press Council) in the public interest. Their contention is that currently citizen's only recourse is the Press Ombudsman or taking matters to courts in case of grievances. As a result, complainants have to endure lengthy delays before their names can be cleared. Moreover, the court processes may not be accessible to ordinary citizens because of the attendant costs. According to the ruling party, parliament should consider the desirability of MAT as a statutory, independent institution established through an open, public and transparent process that is accountable to parliament.

Not surprisingly, the commercial press is opposed to the idea of creating a Media Appeals Tribunal. The essence of media opposition is that the move to establish the MAT is synonymous to interfering with the freedom of expression and freedom of the media as guaranteed by the Constitution. Furthermore, this development, according to the media, undermines the existing media self-regulation mechanisms already in place, such as the Press Ombudsman, Press Council and the code of conduct for the media.

African National Congress secretary general, Gwede Mantashe was quoted at the African Participatory Democracy Conference held in Johannesburg saying, "Freedom of the press and freedom of expression must not be elevated above other rights, [such as] the right to privacy and the right to dignity. These rights must be equally protected. Therefore,

giving media freedom its status of being equal to democracy is a misnomer." Mantashe further accused journalists who have opposed and criticised the proposed media tribunal of not being familiar with the resolution that proposed it.

With this love and hate relationship that is playing out between the media and the ruling party, where does the ordinary citizen stand? How do they feel about this proposal that the ANC is introducing? And what implications will it have on them?



Nadine Gordimer, South Africa's Nobel prize-winning writer, stated that not only journalists would be affected by the proposed medial tribunal. Creative writers would suffer a sinister attack on their freedoms, because they rely on material unearthed by journalists and their intellectual space would become fenced in. "We too are threatened by denial of freedom of the word, which is our form of expression of the lives of the people of South Africa. Journalists give us the facts, but in poetry and plays and novels there is a level of deep complexity, and that would be confined within the forces of government. Our aim is to explore life," she said. The regulations would therefore restrict this. She added, wryly, that it was "more than an irony" that she was fighting for freedom again. "People died in the freedom struggle, and to think that having gained freedom at such a cost, it is now indeed threatened again. All writers are threatened by censorship, and censorship is the reality lurking behind the words 'media tribunal'. We are protesting against the institution of a media tribunal, which of course means 'word police'."

Mxolisi Spondo, who shared his opinion with the Daily Dispatch newspaper, noted a major challenge of the current self-regulation system. For a complaint to be accepted by the Press Ombudsman for arbitration, the aggrieved party first has to agree to waive his/her constitutional right to take the issue to court if they disagree with the verdict of the self-regulating system. Surely with this scenario, one can conclude that media self-regulation works sorely for the interests of the media. The other important shortfall in the current media self-regulation system is the lack of public participation.

To what extent are the existing self-regulation mechanisms bringing on board members of the public into decision-making?

In a sense, when issues of accountability and responsibility are raised about the conduct of the media, there's always a tendency by the print media to go on the attack and sensationalise the engagement as an attempt to control the media. Yet, we cannot celebrate democracy in our country if the media are not accountable, like any other

institution in the South African public sphere. Be that as it may, the major shortcoming of the two protagonists to this debate is their respective inability to absorb criticism. On one hand, any effort aimed at transforming the media to truly reflect the needs and aspirations of the people of South Africa is trivialised by the media as a threat to make them less critical of government. The latter fares no better and there are credible reasons to suggest their enthusiasm for reforms is not innocent either. In any case, it is widely known

that they frown at every small report of corruption and other official misdeeds.

Other responses that were published in the Daily Dispatch were from Phillip Dexter and Farouk Cassim who stated that the Vienna based International Press Institute (IPI) very correctly asserts that if a Media Appeals Tribunal is appointed by Parliament, it will face an inherent conflict of interest that will skew its rulings in favour of public and party officials and essentially amount to government oversight of the media. They further pointed out that our right to freedom of expression is not mutually exclusive of the freedom of the press. "Curb the press and we, as a people, are on the way towards authoritarianism. Stop investigative journalism in its tracks and we, as a people, will have heavy imposition of taxes on us so that serial looting on a larger scale can be sustained. There is no benefit for society from the MAT. There is only a serious loss for society".

Conclusion

The mere fact that the Press Ombudsman is from the media ranks, a former journalist, and is not an independent person who looks at the media from the layman's perspective, poses an inherent bias towards the media with all interpretations favourable to the institution, and the other party just has to understand and accept the media way, which is grossly unfair and unjust. My recommendation would be to find a focal point in making the ombudsman system work. It should not be beyond our capacity, to design a system that will enforce a decent code for the press and where we can feel that justice is done. But it must be in the public domain, transparent and accountable to the public.

Freedom of expression is pivotal to our democracy and our constitutional democracy needs to be protected till the end. For years the media has gloried in the achievements of the ruling party, but its failures are so many and so consistent that the media have to report the facts. That is the reality; anything else would be a fabrication. The ruling party needs to take this criticism or information from the media and make introspection, like the press council has committed to do. If The Press Council of South Africa (PCSA) can undertake a complete review of its constitution in the wake of criticisms, which have emerged in debate over the African National Congress's (ANC's) planned Media Appeals Tribunal, why can't our government do the same? r

"Freedom of expression is pivotal to our democracy and our constitutional democracy needs to be protected till the end."

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THE ANC YOUTH LEAGUE:

Lost in the High Seas?

By Thabile Sokupa

The role of the ANC Youth League (ANCYL) in the ANC's development, renewal and growth has always been quite significant. At its formation in 1944, the ANC Youth League was not only positioned to mobilise young people behind the vision of the ANC and champion their interests, but the Congress Youth League (earlier reference to the ANCYL) was rather packaged as a formation determined to give new impetus, radicalise and energise the ANC into a fighting force for people's liberation (Benson, 1963). The ANC Youth League's relationship to the ANC is historically more of a political relationship than a paternal/maternal relationship, more often defined by clearly defined political programmes and strategies that sought to give the ANC new energy. The ANC Youth League's 1944 Manifesto and 1948 Programme of Action went a long way in reshaping and revolutionising the political, organisational and ideological character of the ANC (IJAHS, 1972). Only five years after its formation, the ANC Youth League was able to influence and change the ANC into a fighting liberation movement with clearly defined ideology, strategies and methods of engagement.



The ANCYL has since its formation and during the exile years been an autonomous organisation with a profound impact on the operations of the Mass Democratic Movement (MDM) and on the ANC itself. It produced a number of leaders who later occupied senior positions in the ANC. Those leaders played an influential role in shaping the political thinking of the ANC, which impacted significantly on the political landscape of South Africa at different stages of the transformation processes. Although the ANCYL does influence the decisions of the ANC, there has as yet not been any comprehensive study undertaken on its work and its impact on the ANC as the "mother body". Mokoditloa Eliakim Moemi, one of the ANCYL leaders prior to the Limpopo Conference, wrote the following about the organisation:

"The organisation has been described as a reservoir of leadership for the ANC as many of the great leaders were drawn from among the ranks of the ANCYL. It has also been considered as a preparatory school for the ANC, because most leaders were trained and prepared in the traditions, as well as practices, of the ANC within the ANCYL before they were ready to assume the leadership reins of the ANC itself... The ANCYL changed the political approach of the ANC in the mid 1940s and also assumed the role of 'king maker' in the ANC during the 1949 conference of the ANC by successfully lobbying for its chosen candidate to become ANC President against a popular incumbent (Moemi, 1997)."

It is clear that since the dawn of democracy in South Africa, the impact of the ANCYL has remained strongly instrumental in shaping the thinking and approach of the ANC. Although the ANCYL had made some headlines before the ANC's (Polokwane) Limpopo Conference of December 2007, it may be argued that throughout the history of the liberation struggle, the league was instrumental in giving direction to the ANC. Its impact was countrywide, with various degrees of influence in almost all spheres of the ANC's government. The ANCYL intended to play a major role in the election of the ANC's leadership and its influence proved important in previous ANC conferences. It was therefore not surprising that it took the centre stage before the Limpopo Conference in influencing the proceedings as to who becomes the President of the ANC. Without doubt, the history of the ANCYL as the "kingmaker" within the ANC is clouded in the mystique of liberation discourse. On many occasions, the ANCYL's history was credited with acts of heroism, advancing plat-

Julius Malema, ANCYL president Photo © ceemwa/flickr

forms of open debates and the implementation of powerful mass-based strategies of resistance (Botiveau, 2010). However, since post-Polokwane it has become crystal clear that the youth league under Julius Malema has become nothing more than a vainly querulous, self-aggrandisement vehicle for its leadership elite, far removed from the realities faced by millions of young South Africans. Sensational revelations about ANC Youth League leader Julius Malema's fortune made from lucrative municipal construction tenders bear testimony to this. Malema's latest dilemma is but a symptom of a far greater problem. There is clearly a widespread problem of self-enrichment by a horde of senior political leaders and civil servants taking place at the expense of the poor and the workers through a system of shameless patronage. This system of patronage is possible in its current form, because of a lack of internal democracy, transparency and accountability on the part of the ruling party.

Seemingly, the ANCYL has been sucked into this destructive patronage system and all they fight over is space at the dirty feeding trough. According to the outcome of recent discussions conducted by the youth research agency 'Instant Grass', the study found that young people "did not feel that political parties had a solid understanding of the youth" let alone from its youth wings.

The relevance of the ANCYL to the young people of South Africa is clearly waning. Instead of championing the interests of the young masses as it claims, the ANCYL has been too infatuated with itself and its rather self-indulgent, paying little attention to the youth agenda. More attention is focused on internal fights or tired old arguments between opposing factions as we recently noticed in the recent provincial leadership elections.

The ANCYL ought to remember that young people are by far the largest interest group in South Africa, and that it is this segment of the population that bears the brunt of many social ills. From an observer's point of view, young people

have become increasingly restless for opportunities and are eager to claim their space, but the institutions of democracy such as the ANCYL have seemingly conspired against them. Consequently, in the current context, the youth are only useful for dirty campaign tactics like political violence, intimidation and harassment of their political leaders' opponents.

Young people are in many ways under siege. They are marginalised by adults and the elderly from decision-making processes, faced with the prospect of health threats from the HIV/AIDS epidemic, denied employment while at the same time taking the flak for the increasing level of crime and violence. It would be desirable to have an ANCYL that is trying to improve the lives of young people of this country who were disadvantaged by the terrible history of apartheid, and continue to be disadvantaged by the lack of significant real positive change since the dawn of our democracy.

At the recent ANC national general council held in Durban, the Sunday Times reported that "expensive single malt whisky flowed in Durban's nightspots as delegates partied the night away. In attendance were youth league president Julius Malema, deputy minister of police Fikile Mbalula, league treasurer Pule Mabe, spokesman Floyd Shivambu and deputy president Andile Lungisa. After having spent R32 000.00 on drinks, Malema left the venue at around 6am on in a white Range Rover, while his entourage followed in high performance German sedans (timeslive, 2010)."

Such excesses in the midst of so much suffering among the young people of this country are highly ill-advised. They confirm the widespread perception that the League is lost in the wilderness of vanity and the pursuit of luxurious living and it is totally oblivious of the dangers ahead. The greats of years gone by (Oliver Tambo, Nelson Mandela, Walter Sisulu and many others) would have a real hard time looking for the authentic ANCYL under the prevailing circumstances. The remnant is a soulless vessel, a stepladder to financial wealth and influence within the ruling party. It is a vessel lost in the high seas - and worse, it is rudderless. T

“The youth league under Julius Malema has become nothing more than a vainly querulous, self-aggrandisement vehicle for its leadership elite, far removed from the realities faced by millions of young South Africans.”

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Celebrating 100 Years of SACU

By Thembi Mabhula

SACU (Southern African Customs Union) has made it through loads of odds to celebrate a full century which elapsed on June 29, 2010, making it the oldest Customs Union in the world and perhaps one of the most functional regional economic integration in Africa. SACU comes from a Customs Union Agreement (CUA) formed in 1910 between the then Union of South Africa and the High Commission Territories of Bechuanaland, Basutoland and Swaziland. With the advent of independence for these territories, the agreement was updated and on December 11, 1969 it was relaunched as the SACU with the signing of an agreement between the Republic of South Africa, Botswana, Lesotho and Swaziland. The updated union officially entered into force on March 1, 1970. After Namibia's independence from South Africa in 1990, it joined SACU as its fifth member. Initially the union was administered by South Africa, a member state, together with Botswana, Lesotho, Namibia and Swaziland (BLNS).

Challenges at 100 Years

While SACU may be 100 not out (in Cricket parlance), the sustainability of the union is increasingly very shaky in the face of various modern era challenges. The acquisition and sharing of revenues underpins the challenges that are rocking the core of the union.

The economic structure of the union links the member states by a single tariff and there are no customs duties between them. The member states form a single customs territory in which the tariffs and other barriers are eliminated on all trade between member states for products originating in these countries and there is a common external tariff that applies to non-members of SACU (SACU website, 2007). The union collects duties and the revenue accumulated is shared among the member states on a quarterly basis. The global



Thembi Mabhula (far left) attended the SACU conference on behalf of Afesicorplan.

economic meltdown experienced in 2009 across the global markets also affected SACU imports and exports drastically forcing it to implement austerity and cost reduction measures for the member countries. Consequently, revenues have dropped sharply since the global economic crisis. Due to the global meltdown, according to SACU chair, Namibia's total revenue from the tariff pool is down by 40%. This will have a drastic impact on Namibia's national budget, which largely depends on SACU revenue flows (Van den Bosch, 2010).

South Africa, a major and dominant member state due to its giant economy, responsible for over 90% of the region's gross domestic product (GDP), is seriously considering terminating its SACU membership with the approval by some major structures in the country which agree that SACU is a liability to the progress of the South African economy. Furthermore, in South Africa there is a consensus in official structures that the country cannot afford to indefinitely carry the fiscal burden imposed on it by the revenue sharing formula (Draper, Dube, 2010). Yet the absence of South Africa renders the union very fragile.

The revenue is shared among members according to a revenue-sharing formula, as described in the SACU agreement. This formula has been much contested, but no agreements have ever been



SACU Membership

	BOTSWANA Capital: Gaborone National Day: 30 Sep
	LESOTHO Capital: Maseru National Day: 4 Oct
	NAMIBIA Capital: Windhoek National Day: 21 Mar
	SOUTH AFRICA Capital: Tshwane, CT National Day: 27 Apr
	SWAZILAND Capital: Mbabane National Day: 6 Sep

reached to finalise it. South Africa is the custodian of the revenue pool. Only the BLNS member states' shares are calculated with South Africa receiving the residual. South Africa, being the strongest economy in the region, is not happy with its small share any longer and has requested to change the system of 'enhanced payments', which it says favours the BLNS countries. An abrupt withdrawal of the revenues will have dire economic, social and political consequences for the BLNS states and would severely affect Swaziland and Lesotho, since they cannot sustain their budgets with their small internal revenues.

Lesotho and Swaziland are the most heavily dependent members on SACU shares. Their small economies seriously need SACU revenue, which constitutes 70% of their budgets. Lesotho and Swaziland derive more than half of their national budgets from the customs union, while Botswana's relies on 29% of SACU revenue, according to its central bank. Only South Africa is less dependent on the union, as it receives a residual payout, after all other member countries have received their share (Van den Bosch, 2010). Namibia is greatly concerned about this development, because it will have a significant impact on its national budget, while Botswana is at the moment well sustained by its diamond deposits, but the future spells danger even for them as the deposits are getting depleted and they will have to dig deeper to get to deeply embedded deposits. At the moment, they are still doing open cast mining, but they are bound to sooner than later feel the SACU revenues squeeze.

There is a further sore point of disagreement within the world's oldest customs union over the Economic Partnership Agreements (EPA) that regulate market access between SACU and the European Union (EU). Botswana, Lesotho and Swaziland have willingly decided to sign the trade agreements with the EU as these work in their favour, while Namibia and South Africa have strongly demanded that before they sign the EU must remove the clause about the Most Favoured Nation (MFN), which would automatically extend SACU's trade allowances to third parties. Namibia and South Africa will be obliged to find their own measures of protecting their borders from the leakage of EPA goods. Also, different Common External Tariff (CET) regimes applied to different SACU member states exacerbate differences; a major rift is looming and threatens a split amongst the member states. This has caused persistent quarrels over the future of the Customs Union. South Africa may decide to pursue its own trade pathway or even join customs union with countries that have bigger economies, like the SADC or the COMESA blocs.

Prospects of Giant Intra-African Trade

SACU is also facing terrible threats from prospective giant intra-African trade giants. Major southern Africa and Eastern Africa organisations, like SADC and COMESA (Common Market for East and Southern Africa), have initiated their own customs unions, which are likely to entice South Africa. Both SADC and COMESA customs are in the process of be-

ing refined. Having decided that SADC should move to a Customs Union (CU) by 2010, the task now facing the region is to identify the options and select modalities. The essential feature of a Customs Union, differentiating it from other forms of regional integration (which may operate in parallel), is its treatment of tariff and non-tariff barriers to trade in goods and the distribution of revenue collected on these goods (SADC Secretariat Report, 3 September 2007). COMESA also launched its customs union in Zimbabwe during the 13th Summit of the COMESA Heads of State and Government, which was held in Victoria Falls, Zimbabwe (COMESA website, 2010). There are ongoing tripartite free trade discussions between COMESA, SADC and the East African Community, which seek to reach agreements on regionalising trade in East and Southern Africa. This will dwarf SACU and furthermore attract South Africa.

Resolving the EPAs is difficult and adding to the impasse is finding the way out of the revenue sharing formula. South Africa has seemingly been pushed to the edge. What if it decided to pull out of SACU? The BLNS countries are currently exercising intensive care options to redeem SACU with a pleading attitude to big brother South Africa not to vacate. What seems paramount to them is to defend the revenue share, which directly speaks to their immediate budgets at home. If left alone, they face the challenge to immediately replace the revenues they are currently receiving from SACU and the mountain seems to be steep, because, for example, Lesotho and Swaziland have to each climb a 70% budget gradient to get safely to the pinnacle of the mountain. They have to quickly source loans to cover the gap. Alternatively, the two can leave Botswana and Namibia to find their own way and lose their sovereignty status and become part of South Africa, if South Africa is willing to take them in. Namibia and Botswana are far from being comfortable about the collapse of SACU, since the revenues they get constitute significant portions of their budgets as well. As for South Africa, the revenue they get from SACU is but a supplement to their financially sound budget. The risk South Africa is likely to face is that if SACU continues to survive, South Africa will face a high tariff rate from its traditional trading partners, which will continue to be the market South Africa needs, but for their survival the BLNS countries will raise their tariffs to increase the revenues they dearly need at home. South Africa is likely to get better and acquire trading partners and sign agreements without having to first consult SACU.

Conclusion

In conclusion, SACU has narrowed its vision to revenue sharing, but it is time they looked out into other broader economic options as a regional trade union. Finally, it is important to acknowledge that SACU is fully aware that the Customs Union is not just about revenue sharing. Issues of trade facilitation, harmonisation of policies, and cooperation among member states to harness investment in the region are equally important. This is the principle that the new SACU Vision and Mission underscores (Keynote Address by Executive Secretary of SACU). τ

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Farmers' Market Photo © NatalieMaynor/flickr

The nature of municipal markets in the Eastern Cape

By Zingisa Ngqongwa

Municipal markets operate from a central wholesale market, which provides fresh vegetables and fruits that people need every day. The market shoulders the crucial functions of bringing in produce from various producers, setting a *fair* price, and ensuring a stable distribution of fresh produce for the consumers. Fresh produce by its very nature has a short life span. It is also easily affected by changes in weather and other natural factors leading to unpredictable production levels and changes in the balance between supply and demand. This in turn greatly affects the price. In light of these factors, the market strives to carry on the job of gathering, pricing and distributing large quantities of fresh produce in as effective a way as possible to help ensure the variety and safety of the produce which consumers need, and in so doing add stability to the dietary habits of the communities.

The vegetable market is unregulated and technically open to all producers. The fluid and uncertain nature of the market has led retailers to enter contracts with large growers at the beginning of the season so as to ensure a specific range of vegetables in accordance with predetermined schedules. These arrangements have seen a declining role for municipal markets and make it difficult for small, new producers to gain access to the major supermarkets. In spite of these arrangements, opportunities for the supply of small quantities of produce to a range of outlets do exist. Spar, Lombardi Foods, the traders at municipal markets, restaurants, corner

shops and hawkers all procure some of their goods opportunistically on an informal spot-market basis from small scale producers. The key in accessing these opportunities is to win the trust of purchasers by demonstrating the ability to produce quality vegetables consistently and to deliver them on time. Emerging producers are also well placed to supply the burgeoning informal settlement food market, where onions, cabbages, potatoes and squash are a staple diet and real incomes are increasing.

Ownership of Markets in the Eastern Cape

Markets in South Africa essentially function on a commission-based system. Market agents and the market owners (municipality) receive a commission from producers for the services supplied to producers by the markets. Fresh Produce Markets in South Africa are mostly owned and managed by local government. The Port Elizabeth and East London markets are departmentally owned markets. This implies that normal day-to-day business improvements may take place, but that no real intervention with regard to throughput will occur. In this option both the property (land, buildings and other improvements) and the operation of the fresh produce market business are owned by the municipality. On the other hand the Kei Umtata Market is a municipal entity. Here the operations, systems, employees and movable assets of the fresh produce market are transferred to a municipal entity, but not the property (land, buildings and other improve-

“The market strives to carry on the job of gathering, pricing and distributing large quantities of fresh produce in as effective a way as possible to help ensure the variety and safety of the produce consumers need.”

ments). The shareholding in a municipal entity, which is a private company incorporated in terms of the Companies Act, can take various permutations. The company is a municipal entity as long as one or more municipalities collectively hold effective control in the business. In this option the property is leased on an arm's length basis from the municipality. A municipal entity cannot enter into a Public Private Partnership (PPP), thus the property can only be leased in terms of a normal business lease of property and no real risk transfer to the municipal entity can take place. The Johannesburg FPM (a private company in terms of the Companies Act) and Kei Umtata Markets (a Section 21 Company in terms of the Companies Act) are municipal

entities in terms of the Municipal Systems Act.

Issue of Accessibility

In most cases, fresh produce markets are situated in faraway places out of town and away from busy streets where most consumers are. These markets are most suitable to big commercial farmers and unfavourable to hawkers and small farmers who want to sell their produce. Even though the market is said to be open to everyone, people often face a great challenge of not being able to access the market due to lack of transport. A number of small farmers often find themselves having to sell their produce informally around towns to make profits. In other cases, some are even advised to sell informally rather than to sell at the market and compete with well established farmers.

Price Formulation at the Market

Municipal markets are supposed to offer a low risk, low barrier to entry marketing channel. The main purpose of the system is to discover an accurate price for produce given the unique circumstances of that particular moment. There are no fixed prices and the value of a good market agent lies in their ability to achieve the correct price. This price might be high or low, but the price has to reflect the current variables (supply, demand, weather, quality, etc.).

If a product is of good quality and can compete with the biggest farmer in the country then the agent has a duty to treat

all his consignments the same. In order to assist the small farmers and individuals who want to sell at the market, the East London market is planning to restructure the cold storage facility so as to open a space for previously disadvantaged individuals (PDI) and small farmers to trade or compete at the market.

Challenges Markets Often Face

One of the challenges that markets often face is the issue of securing reliable market agents, which is the core of the business. Market agents play a central role as they are the interface with suppliers. Market agents are appointed by the market and earn their keep on a commission basis. They act as the guarantors of quality and are critical to the success of a market. The other challenge is that of finding reliable suppliers (farmers) to supply the market.

For an agent to consider you for supply you need to be able to fulfill contractual obligations and some emerging farmers are far from being that. This challenge is often faced by municipalities that are attempting to grow the opportunities for emerging farmers to access new markets. Arguably, it is impossible for municipalities to address the supply side issues without the assistance of other spheres of government working closely with emerging farmers to address the quality and reliability of supply. There are many issues there. That is a role that should be carried out by the Department of Agriculture as municipal markets do not have that capacity. Other departments also need to be involved, as well as commercial farmers, because these issues relate to land access, skills, infrastructure and other types of support. There is a lot of input that needs to be given, and co-ordination is also needed.

Small-scale producers, on the other hand, are confronted by a number of constraints that impact negatively on their ability to market fresh produce; lack of transport facilities, poor market infrastructure, poor road infrastructure in certain regions, lack of market information as well as a lack of capacity to interpret data.

To deal with these challenges, other spheres of government need to work together in assisting emerging farmers. Some programme needs to be developed to capacitate emerging farmers by offering assistance with transport to markets, selling of fresh produce at municipal markets, arranging farm visits, administration assistance and queries, monitoring and measuring turnover from emerging producers and assisting with market information and communication. All these will help develop small-scale farmers so that they can produce good products and be able to compete with well established farmers. Ultimately, the objectives of this programme should be to boost production, increase sales at municipal markets and ensure that the profits flow back to the emerging farmers in order to make their businesses viable and sustainable. r

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Cemeteries: Thinking Out-of-the-Box

By Ronald Eglin

The Challenge

According to the Buffalo City Municipality's Integrated Development Plan (IDP), 2009/10, the city "is rapidly running out of grave sites and is under tremendous strain to develop new sites." This lack of space for burial is a serious crisis confronting many municipalities around the country.

A study conducted by the Buffalo City Municipality in 2004, noted that there were twenty formal cemeteries in the Buffalo City Municipal area with eighteen of these being within urban areas; nine of these cemeteries were full and one was found unsuitable, leaving only eight cemeteries with space for future burials.

The majority of cemeteries in Buffalo City are technically illegal as that they don't have the necessary environmental and other approvals. The 2004 study identified 82 informal cemeteries in Buffalo City (mostly in rural areas). Only 36 of these were identified as suitable for further use. None of these informal cemeteries are managed by the municipality.

Not enough new land is being identified for new cemeteries, compounding the problem of the expansion of unmanaged informal cemeteries. In 2004, it was estimated that the southern part of Buffalo City (Mdantsane and East London) would need 87Ha of land for burial between 2008 and 2018. Only 12.1 Ha were available in 2004 for future burial.

As highlighted in recent newspaper articles, formal cemeteries are not being adequately managed and secured. The Buffalo City Municipality has on average only two maintenance workers per cemetery. The residents of Duncan Village have had to intervene and voluntarily clean cemeteries in their area ("Conflict over DV cemetery clean up," Daily Dispatch, 2 July 2010). Vandalism and muggings are also a problem.

Only the Cambridge cemetery has security guards.

The municipality has identified the need for three regional cemeteries, but progress in establishing these cemeteries appears to be very slow. One of these regional cemeteries is in the noise buffer zone of the East London airport. Very little progress has been made in identifying land for possible smaller cemeteries. For example, the 2004 report recom-

"There are many perceptions and cultural traditions that need to be taken into account when finding a solution to the burial challenge."



Old cemetery Photo © pyrofenix/flickr

mended that land within power line servitudes be explored for its potential to accommodate cemeteries. No such cemeteries have been established.

The 2004 report also recommended that the use of cremations for the disposal of bodies be promoted further. The practice of cremations however has not increased significantly in recent years.

There are many perceptions and cultural traditions that need to be taken into account when finding a solution to this burial challenge. The cremation of bodies is not a common practice in black African culture. Family and friends of the deceased want their loved ones to be buried close to where they stay and they want some form of memorial (or tombstone) to remember the departed.

Possible Solutions

Innovative and out-of-the-box thinking is needed to address this cemetery crisis. A quick scan of possible options reveals the following ideas:

- Cremate more bodies. Ashes can be kept by the family or scattered. Walls of remembrance can provide a lasting memorial.
- Find more land for burial, both in the form of regional and local cemeteries.
- Reduce the size of grave plots and/or the space between grave sites. This includes the increased use of berms where the memorial work is erected on a berm with grass over the graves. This also makes maintenance of the cemetery easier.
- Bury two people on a plot, one on top of the other. Initial bodies are buried at a deeper depth with a subsequent family member buried above this.

- Reuse the grave. Special chemicals can be used that speed up decomposition of bodies so that graves can be reused after only ten years. If decomposition is left to nature, reuse can occur after 30 years. The grave site can, in these instances, be used by family members with tombstones updated appropriately.
- Allow other complimentary land uses like parks and nature reserves within cemetery grounds. See the box on green cemeteries for more on this option. With increasing concern for environmental sustainability, natural burials are likely to be a popular form of burial that creates sacred natural areas that care for and respect our planet; leaving it in a condition that will endure and be used by future generations.

We cannot rely on one of these options alone to solve the entire cemetery problem. We need to work on all, or at least most of the options suggested above, as well as others that may emerge.

One of the main steps that need to be taken is for the municipality, and others in the funeral sector, to implement a comprehensive awareness campaign on all the options, especially cremation. This will include, for example, getting councillors, community leaders and church leaders to understand and support cremation and other options.

It is recommended that the municipality establishes a municipal cemetery committee, which includes a range of interested parties, to address the issue of how to deal with informal (and illegal) cemeteries and to plan for the identification and development of further regional and local cemeteries. The necessary funds and resources must be made available to pay for the various studies required, buy the land, develop the cemeteries and make sure there is sufficient management and maintenance capacity to maintain these cemeteries into the future.

Government, at national or provincial level, needs to conduct research into alternative forms of cemetery ownership and management (e.g. community-owned cemeteries or private cemeteries). Pilot projects that look at various forms of multi-functional land use, such as that proposed for the green cemetery, should also be initiated, tested and reviewed. The economic potential of cemeteries and memorials should also be explored. Memorials are often a huge tourist attraction in their own right (just look at the pyramids of Egypt).

“One of the main steps that need to be taken is for the municipality, and others in the funeral sector, to implement a comprehensive awareness campaign on all the options, especially cremation.”

Development control mechanisms should also be tested where, for example, permission for new township establishment is only granted if local cemetery space is provided as part of the new development; or any new large scale development is required, as part of their development approval, to contribute towards a fund that goes towards the development of new regional cemeteries.

The Buffalo City Municipality IDP of 2009/10 states that “a serious education drive needs to be implemented in order to change the cultural beliefs regarding alternative burial methods. A new cemetery environment has still to be established, which would align cemetery design, planning and development with the Buffalo City strategic goals and objectives.”

We urge the Buffalo City Municipality, and other municipalities that face a similar ‘grave’ crisis, to inform the public on what progress they are making in achieving such objectives. r

Natural Burial

A modern natural burial (also called Green Cemetery, Woodland Burial) is an environmentally sustainable alternative to existing funeral practices where the body is returned to the earth to decompose naturally and be recycled into new life. The body is prepared for burial without chemical preservatives and is buried in a simple shroud or biodegradable casket that might be made from locally harvested wood, wicker or even recycled paper, perhaps even decorated with good-bye messages from friends.

A natural burial ground often uses grave markers that don’t intrude on the landscape. These natural markers can include shrubs and trees, an engraved flat stone native to the area or centralised memorial structure set within the emerging forest that provides places for visitors to sit. As in all cemeteries, there are careful records kept of the exact location of each interment, often using modern survey techniques such as GIS (geographic information system).

Planting native trees, shrubs and flowers on or near the grave establishes a living memorial and helps form a protected wildlife preserve. A completed natural burial preserve is a green place with trees, grasses, and wildflowers, which in turn brings birds and other wildlife to the area.

These sacred and natural places leave a legacy of care and respect for our planet.

Irrigation is not used, nor are pesticides and herbicides applied; instead, a natural burial preserve protects and restores nature while establishing a place where family and friends can visit and be at peace.

Cemetery legislation can be established to protect natural burial preserves in perpetuity from future development while the establishment of a conservation area would prevent future owners from altering the original intent for these burial grounds.

Natural burial is a statement of personal values for many people who seek to minimise their impact on the planet. For people who are mindful of the cyclical nature of life, natural burial is a spiritually fulfilling alternative to the conventional funeral.

Taken from: <http://www.naturalburial.coop/about-natural-burial/>
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Being Short-Changed: Women and Access to Land in Patriarchal Societies

By Noxolo Kabane

Women have a dismally minimal access to land across the globe. This is an extremely complicated issue that changes according to national contexts, social groups and legal systems. It is one of the key indicators of the marginalisation of women.

The issue of land access takes on different forms depending on whether those concerned live in urban or rural areas and whether they are married or single. While the type of prenuptial agreement is of importance, in most rural areas such agreements are largely non-existent, which means women have no form of security or protection in the event of death.

In urban areas, most seek to hold land for residential houses, as well as commercial and industrial buildings. Any citizen, male or female, can make an offer to rent or buy a plot of land from the relevant institutions, although the final decision depends largely on the weight of the applicant's wallet. In rural areas the communal land holding system makes land a family property (for occupation) that ordinarily gets inherited by the eldest patriarch.

South African rural-based women occupy and use land in a variety of different forms. Women's relationships to land are determined by a mixture of apartheid land policy, the contemporary South African economy and the nature of the rural specific rural areas. The challenge of developing a coherent national policy to address the range of issues and diverse forms of rural production, and to do so in ways that simultaneously challenge the subordination of women, is daunting (Mann, 2000). There are many challenges facing various groupings of rural women and land activists.

Three key elements characterise rural women's position in relation to land. The first has to do with their lack of legitimate access to land in the form of rights. The second highlights their minimal role and access to decision-making around land. The third relates to the broader social, economic and environmental context.

Both women and men from rural and dispossessed communities share a basic need for land with secure tenure and associated support services. In a traditional setting, women lack independent rights to land and are only eligible for allocation

through men, either husbands or sons. Hence, much to do with land relations is bound up in laws and practices around domestic relations, in particular those pertaining to marriage, inheritance, etc. Only married males are formally eligible for land rights. Also, inheritance operates through sons; in customary law the eldest usually inherits the land. A widow without children is particularly vulnerable since the land she works will probably be taken by her parents-in-law or her late husband's brothers.

Women's lack of authority in society also limits their control over the land resources. South African tenure reform policy, particularly with regard to communal areas, has done very little (apart from stated commitments to gender equity in policy documents like the 1997 White Paper) to address the needs of the majority of poor, black women in South Africa's rural areas (Mann, 2000). The Draft Land Rights Bill of 1999, provided that where protected tenure rights are shared by family members, the rights must be registered jointly, by two adult members, and where practical, one of these adults must be a woman. The Bill did not define, however, what was meant by "where practical." Furthermore, subsequent draft tenure policies may even have negative implications for gender equitable tenure systems. The proposed Communal Land Rights/Draft Tenure Bill, released in late November 2001, appeared to increase the power of traditional authorities with regard to land allocation and introduced contentious concepts such as "tribal" land ownership. Critics maintain that the such legislations just serve to undermine the land rights of vulnerable groups, especially women.

The Secretary General of the World Conference of the United Nations' Decade for Women stated that women are "basically powerless and property-less." This is not an exaggeration. In 1980, women still owned only an estimated 1% of the world's property, and part of this 1% masks male ownership hidden for tax purposes (French, 1992). Despite more than a decade of land reform in Zimbabwe, men still own 90% of the land in rural areas.¹ Female-headed households in Botswana own a third less land than male-headed households.² In Nigeria in 1990, women still constituted 50% of those who lived and worked in rural areas, but owned less than 5% of the total land area.³ In Tanzania, it was only with the introduction of the Village Land Bill in 1999 that women were officially allowed

"In a traditional setting, women lack independent rights to land and are only eligible for allocation through men, either husbands or sons."



Nontando Ngamlana and Gugu Mgwebi from Afesis-corplan facilitating situational analysis research in eLujecweni, Tsolo

“A radical transformation of society is required in order to defeat the patriarchal norms and standards that contrive to oppress women.”

to own land.⁴ In South Africa, it was only through legislation introduced in 1985 and again in 1988 that rural African women ceased to be considered minors in land-related transactions (Mann, 2000). These statistics have improved in some countries as a result of women-based organisations that are voices for these women and because the legislation is now considering the empowerment of women when reviewing laws.

practices and laws that discriminate against women's access to land must be reviewed and brought in line with national policy. In particular, tenure and matrimonial laws must be revised appropriately,” (ANC Land Policy Document, 1992). Not much has been achieved, though, in practical terms.

A few other countries have attempted some progressive approaches to ensure gender equity. For instance, a redistribution project in Bangladesh in 1997 provides a positive example. Redistributed plots in the project were leased on a permanent basis - jointly, in the names of husband and wife. In case of divorce, legislation stipulated that the wife would retain access to the land (Hargreaves, 2001). Such strategies help to empower women and make them less vulnerable. However, policies and legislation alone may not result in gender equity in land access and ownership. Effective implementation, monitoring and evaluation needs to be stepped up.

In terms of policy and legislation, there is no doubt that the ANC-led government is committed to gender equity. The ANC’s 1992 Land Policy document called for special procedures to ensure that women gain equal access to land and participate effectively in policy formulation and decision making. The Reconstruction and Development Programme recognised women’s land rights: *“Women face specific disabilities in obtaining land. The land redistribution programme must therefore target women. Institutions,*

Essentially, a radical transformation of society is required in order to defeat the patriarchal norms and standards that contrive to oppress women. Land acquired through any of the land reform programmes in South Africa, should be registered jointly in the name of wife and husband, or life partners. In case of divorce or legal separation, it should be made possible for women to retain a stake on the land. †

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Inequality: Implications on Governance and Development

Afesis-corplan held its third quarterly seminar on 17 September 2010 in East London. The aim of the seminar was to open a platform for strategic engagement on the implication of inequality to governance and development. It is targeted at stakeholders within the Eastern Cape Province and all institutions including civil society groups.

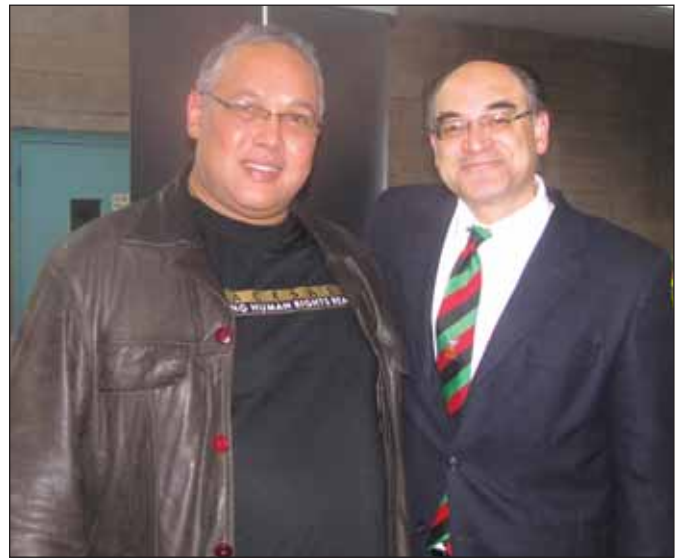
Professor Dudley Seers (1969; also 1979) views development in terms of the reduction in the severity of poverty, inequality and unemployment. Unfortunately, the three elements cited by Seers appear to have become more severe (not less) in the case of South Africa in spite of our experimentation with democracy since 1994.

While inter-racial inequality may have marginally declined, intra-racial inequality appears to be on the rise. The most recent red-flag was hoisted by the UN-Habitat in its survey of 109 countries in different regions of the world (www.unhabitat.org). Buffalo City (East London), Johannesburg and Ekurhuleni (East Rand) earned the dubious distinction of being ranked among the most unequal cities in the world (with Gini coefficients of 0.71 or more).

Ronald Eglin of Afesis-corplan set the tone for the seminar with his presentation, *Equality: In Search of Diamonds*. He illustrated the extent of inequality in Buffalo City, and indeed South Africa, by drawing attention to how the rich and poor live contrasting lifestyles. Interestingly, "in 2008 the average income of the richest 10% of households was nearly 40 times greater than the average income of the poorest 50%."

All citizens are equally entitled to the rights, privileges and benefits of citizenship as stated in the Constitution, which includes the full and equal enjoyment of all rights and freedoms. Eglin pointed out that in more equal societies, compared to inequitable societies, people live longer, a smaller proportion of children die in infancy, children do better at school, a lower proportion of the population is imprisoned, communities are more cohesive, and people trust each other more.

Professor Fred Hendricks of Rhodes University presented a paper titled, *Poverty and Inequality: What Role For Social Policy?* His presentation highlighted "the possible role for social policy in eliminating poverty and reducing inequality. It highlights ... development thinking that seeks to shake social policy loose from its social work and remedial moorings and to anchor it instead to a central role in the development process." Hendricks further intimated that social policy is "a defining feature of the development process itself, because of its impact on the extent of social differentiation, inequality and poverty."



Mr Elroy Paulus and Prof. Fred Hendricks gave presentations at the Afesis-corplan third quarter seminar.

He stated that "policies are often not implemented as initially envisaged. There is a huge gulf between stated policy and the practice of implementation, between the initial intentions of policy and the manner in which these find expression in reality." Also, "inequality is an obstacle to economic performance. ... If inequality is really so very bad for economic growth, then it should be reduced and social policy clearly has a central role to play in contributing towards equity."

Hendricks shows that "the pursuit of social policies that enhance accumulation while securing the state the necessary legitimacy for political stability has constituted the cornerstone of developmental management. ... Those countries with strong social policies on education, health and equity tend to have higher rates of economic growth in the long run."

Elroy Paulus of the Black Sash spoke on *Inequality in South Africa: An Unsustainable Trajectory; Implications on Governance and Development*. From mid-August to mid-September 2010, "there has been a plethora of government policies, reports and concomitant responses and activities by civil society that highlight the urgency of addressing the question [What needs to be done about inequality?] in the South African context."

Paulus made reference to the launch of the Right2Know campaign, which has come about in response to the Protection of Information Bill before Parliament (31 August 2010).

Afesis-corplan and IDASA Seminar

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Friday, 12 November 2010

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“In 2008 the average income of the richest 10% of households was nearly 40 times greater than the average income of the poorest 50%.”

He indicated that it is “an important requirement for civil society/community organisations and the public in general to have unfettered and uncensored access to information about reports, programmes, policies and compliance of especially publically funded institutions as a key right to ensure that political commitments align with mandated requirements - in order to assess whether there has been an impact on poverty, inequality and public revenue generated from economic development.”

He also referred to the exclusion from appeal of unsuccessful social grants applicants, as tabled in the Social Assistance Amendment Bill 2010. “Increasingly we are seeing genuinely poor, vulnerable and destitute persons being turned away

from government support, some who genuinely qualify for such support, and others who are not provided for in the current legislation. ... Efficient and effective programme administration and, where necessary, administrative justice, as entrenched in law, are important components to ensure pro-poor development and socio-economic justice, and is an important factor to eradicate and reduce poverty and inequality.”

Paulus shared insights from three consultative provincial workshops held in the Eastern Cape, Western Cape and KwaZulu Natal where the Black Sash and its partners elicited public preferences in the health system reform, and compared these to the Ten Point Health Plan tabled in Parliament in early 2010. The findings have helped to identify “the urgent need to develop effective approaches for electing public opinions on health policies that have significant implications for South Africans, in order to feed public preferences into the policy development process at an early stage.”

To find out more about the seminar, view the presentations at www.afesis.org.za r

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