

Dream deferred as queues of liberty become queues of want

LOOKING back at the 22 years of freedom, as we have this week, has been a joyless exercise, full of regret at ample opportunities squandered and pearls that have been fed to swine.



Barney Mthomboti

a metaphor for the unemployment line, the services that have not been delivered, the hospitals that have run out of linen or medicine, the criminals who are running amok with total impunity...

The list is too long. The dream remains deferred. The economy is in the doldrums: among the worst performing in Africa — shedding, instead of creating, jobs. Unemployment

continues to skyrocket, especially among the youth where upwards of 60% to 70% are loitering in the streets, unemployed and some even unemployable. Many have come to terms with a life of joblessness.

The only thing that's ballooning is teenage pregnancy. And politically that's not even on the radar. Nobody wants to touch it. It's a hot potato.

Stats SA released research figures the other day which came as a blow to the solar plexus. Black youths between the ages of 25 and 34, it said, were less skilled than their parents. This revelation is even more upsetting given the fact that black people, victims of years of discrimination and denial, ipso facto occupied the lowest rung in the social order. Those for whom the struggle was principally waged are still being left behind.

We have to confront an uncomfortable truth: our children, brought up in the midst of all the opportunities and possibilities that freedom offers, are worse off than their parents were under the yoke of apartheid. It is a serious indictment of the ANC government, which for 22 years has had untrammelled power and a conducive environment to at least put a stop to the effects of apartheid, and then start anew.

Instead, they're presiding over the perpetuation of the ghastly consequences of a system that's supposed to have died 22 years ago. Hendrik Verwoerd must be giving a cheerful chuckle.

As statistician-general Pali Lehloha puts it: "When parents are better equipped than the children, it's a sign of regression. It suggests a very difficult future."

We knew that our education system — with all available resources

thrown at it — sucks, but we didn't know it was this bad. It's a cocktail of disaster, as Lehloha said.

Freedom, while often hard to define, is not some woolly or nebulous concept. It is a powerful tool in the empowerment of ordinary people. It opens and broadens vistas and opportunities. Which is why it's such a shame that our education system is cruelly failing our young people, and this society as a whole. Without education they will lack the skills to take advantage of those opportunities that our freedom makes available.

But there seems to be ignorance, willful or deliberate, even in the high echelons of government, of what freedom in society — and its consequences — means. State Security Minister David Mahlobo ironically chose this week to stand up in parliament and accuse certain

unnamed NGOs of conniving with foreign agents to bring about regime change.

This is reckless and dangerous talk, by somebody with little knowledge or regard for freedom of speech or association in a free society. If he has evidence, then he must charge the suspects. Chances are he doesn't.

This is, of course, the same individual who ordered the jamming of signals in parliament during the state of the nation address last year so that ordinary South Africans would be shut out from what was being said or done on their behalf. The authorities also announced they were investigating charges of treason against Julius Malema, who has threatened to remove the ANC government "through the barrel of a gun" — a classic case of using a knobkerrie to kill a fly.

That's not to say that Malema, who has been a thorn in the ANC's flesh and is often given to verbosity, is a pesky insect. The investigation is clearly politically motivated.

But it's totally unacceptable for an MP to even suggest or allude to the use of violence as a means to solve problems, especially in a society mired to violence such as ours. Free societies have always grappled with where to draw the line between free speech and hate speech or war talk. We should always err on the side of openness.

Freedom began with so much excitement and optimism, with Nelson Mandela, the icon of our struggle, proudly at the helm. We begin its third decade disheartened, embittered and desperately trying to rid ourselves of a successor of his. In the slogan of yesteryear, the struggle continues.

SA has come a long way, but the road to freedom goes on

Human rights lawyer **George Bizos** argues that while the principles that underpin our constitution must remain inviolable, the constitution itself should be a living document

SOUTH Africa's progress towards democracy can only be described as one of triumph. We have broken the shackles of the apartheid era and have the constitution as the high-water mark. I refuse to accept nothing has changed. A simple example of this can be seen at my office every day where all of us, of varied races and backgrounds, eat lunch together in the kitchen, a far cry from my early days at the bar, where I had to fight to be allowed to share chambers with Duma Nokwe.

We of course have a long way to go in achieving our constitutional ideals. We have perhaps never before in our post-1994 democracy been confronted as starkly with the realities of inequality as we were by the recent student protests. South Africa remains one of the most unequal societies in the world, and the struggle to remedy that continues.

Ask any South African about historical heroes and you will receive a plethora of names who served as our guiding lights into the democratic era. In their wisdom, they saw the start of the fall of colonialism as a turning point in the realisation of the ideals of freedom and equality for all. For many, these were ideals pursued not knowing whether the realisation would materialise in their lifetimes, but with a certainty that they were worth pursuing nonetheless.

We saw a world where the territorial gains by colonialists were being dissolved; where the right to self-determination, free of want and fear, was being realised; trade barriers were being lowered; and aggressor nations were being disarmed. In this way, one began to see a version of South Africa that had not been imagined before.

But the fall of apartheid was complicated. There was no overt aggressor state, but rather an aggressive controller. In the face of this oppression, the anti-apartheid movements — diverse as they might have been, from political parties such as the ANC to workers' movements, women's movements and youth movements — found common cause in the ideal of freedom for all in South Africa.

The cost and the losses that came in realising this freedom cannot be gainsaid. The Treason Trial, the student uprisings, the death of activists like Steve Biko and Ahmed Timol in police detention, the hazardous activities undertaken by the military wings — the suffering was immense.

It is difficult to comprehend the depth of the suffering. When I think, for example, of the death of Biko in custody and the fear that more would suffer the same fate, I remain awe-struck by the continued and concerted efforts of so many people across the country who overcame their fears to pursue the cause.

In recalling the student uprisings and reading the recent comparisons with the student movements that we have seen over the past year, I pray that we never again see the innocent blood being spilt of those pursuing their right to receive a decent education.



TESTED: Cyril Ramaphosa, who was ANC secretary-general at the time, stands next to President Nelson Mandela as he holds up a copy of the new South African Constitution at its signing in 1996. Picture: ROBBIE BOTHA

Many people continue to carry with them the pain and scars of those days. When freedom ultimately came, it was not a victory for a particular movement, it was for the people as a whole. By 1985, we could almost taste freedom, but there was still a long and difficult path ahead before it could be achieved. The tide may have turned slowly, but it did turn.

Amid the pain of those dark days, though, were moments of joy. The release of Nelson Mandela comes to mind. The memory of him standing before the world, a free man smiling with his arms raised high — nothing can compare with that moment.

I relived some of the darkest times of South Africa's history in that moment. I realised, too, that many of the struggles, the violence and the heartache were behind us, and what lay ahead was for us to get down to the business of running a free and democratic country. The challenge was daunting, but thrilling.

The constitution and I have had a long friendship. I participated in the negotiation and drafting of the constitution, and was a member of the team of lawyers who argued for its certification before the Constitutional Court. For many years I have been involved in constitutional litigation and today still work in the constitutional litigation unit of the Legal Resources Centre. As with all good friendships, I have defended it, I have challenged it and I have tested its limits and bounds. I continue to stand by it and believe in the potential that it holds.

The constitution was approved in May 1996 by the National Assembly by an overwhelming majority: 421 of the 435 members in favour, only two opposed. Twelve abstained. This, however, was only the first hurdle. It still needed to be certified by the Constitutional Court as being in line with the 34 constitutional principles contained in the interim constitution. This was a novel approach and we were uncertain of what to expect.

The five of us representing the Constitutional Assembly — a team which included Wim Trengove SC and Marumo Moeran SC — draft-

We are entitled to demand openness, transparency and accountability from all

ed more than 250 pages of argument and schedules that we hoped would show conclusively that the proposed constitution complied with these principles.

The debate in the courtroom was heated and robust, and I remember reading the placards of a leading Johannesburg newspaper after the hearing which said "Bizos clashes with judges". I found the characterisation jarring, preferring to think of it as a necessary consequence of the job. This so-called clash was a critical process to test the strength and resilience of what was to become our constitution.

When it came to certification, the Constitutional Court was by no means unaware of the gravity of the task before it. As the court stated in its judgment, "we were mindful, during both the previous deliberations and again now, that the finality of certification demanded, and demands, we make assurance doubly sure".

At the hearing, Judge Richard Goldstone commented that a future Constitutional Court "sitting in 10 or 300 years' time, would have to refer to the constitutional principles. They do not disappear. They would be a primary source of interpretation." To which I responded: "Even in a deep freeze, they would be there forever."

We weren't successful in our first attempt at certification, but the court was satisfied, following the second hearing, that the 34 constitutional principles had been met, and certified the amended text which was signed by President Mandela a few days later, on December 4 1996.

While it is my hope that the principles and values underpinning the constitution are never allowed to wane, the constitution itself is not necessarily cast in stone. It should and must be given the space to evolve naturally in line with society's evolution.

The inclusion of justiciable socio-economic rights in the constitution was a significant milestone, subject to the qualification of progressive realisation and availability of resources.

The goal requires the state to improve the enjoyment of socio-

economic rights to the maximum extent possible, even in the face of resource constraints. But how does one reconcile the understanding of available resources in the face of the rampant corruption that we have seen take place?

We are entitled to demand openness, transparency and accountability from all, even those in the highest echelons of government.

The path to freedom may lead in many different directions, but we must not falter as we continue this march. We must demand accountability and transparency. We must insist that all levels of government perform their duties, from abiding by court orders and effectively rolling out social assistance to implementing recommendations of bodies such as the Truth and Reconciliation Commission and the Marikana inquiry.

We must ensure that civil society organisations and activists are protected, and we must share a mutual outrage at instances such as the killing of the anti-mining activist Bazooka Radebe in the Xolobeni community in the Eastern Cape.

Let us never lose sight of the road we have travelled to enjoy this freedom, or of the hope that we fully realise our constitutional ideals.

This is an edited speech delivered at the University of the Witwatersrand as part of the Freedom Month lecture series

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So Many Questions



Sport and Recreation Minister Fikile Mbalula says he won't let federations bid to host international events because of a lack of transformation. **Chris Barron** asked sport scientist Ross Tucker, named by the same Mbalula as one of the '100 most influential people in sport'...

Will this have the desired effect?
No, because most of the sports aren't equipped to fulfil that mandate.

Does he know that?
I'm not sure what the minister of sport knows or what he thinks he knows.

How badly does the government want to address the problem, do you think?
I think the sports federations are probably very interested in addressing the problem because there are commercial and performance and social benefits attached to doing it. But I'm not sure they're committed to the cost it would take.

Do they have the money?
Most of them don't. And so they're in the position of saying, "How can we even do what we've been asked to?"

Have they got a point?
Yes, they do. I'd hate to be in that situation. They're under-resourced and incapable. They lack the capacity.

So isn't it totally counter-productive in terms of transformation for the minister to stop them from hosting potentially money-spinning international events?
It's the equivalent of asking for a ransom when the person clearly can't pay it. Now it's a standoff.

What will the consequences be?
Some sports will respond to what they're measured against, which is numbers. They will, whether overtly or subconsciously, force quotas in, which I don't think is long-term productive.

Isn't that what they've been doing?
Yes, except no one is willing to say it. There's this unwritten, plausible deniability with these sports, saying there are no quotas, but we all know there are.

Has this affected performance?
I think so. Not necessarily because of the quota but because of the way it's delivered, and the lack of confidence it might create among young players. It breaks the pathway. A lot of young, aspirant professionals leave because they're not sure of the career prospects they have.

Whites?
Yes. So that's the downside on that side of the equation. Which must be offset against the benefits. Because on the other side there are more opportunities for black players. So quotas are not all bad.

What should the government do to encourage transformation?
It needs to support the federations that are under-resourced: financial, human and legislative support. And that's about it.

Provide an enabling environment and let them get on with it?
Yes, but they're not just there as a piggy bank, they're there to provide

expertise as well. There's no reason why government can't take an intellectual leadership role. Solving the problem instead of just pointing it out, which seems to be what's happening.

Do they really want to solve it or is transformation in sport more useful to them as a political tool to use at election time?
Part of what reveals that is the lack of a clear definition of what success would look like. I haven't yet heard that. That enables them to shift the targets any time it suits them.

What's your idea of successful transformation?
Transformation for me is the opportunity to get more opportunities. That has to be quantified along the pathway from the beginning of high school all the way to potentially becoming a professional. Transformation is talent identification, except it's weighted in this country in favour of black people. And that's fine, it's a good thing. But we don't have talent identification, so how do we fix it? It's nonexistent.

Is this why transformation is going nowhere fast?
Yes. Fifteen years ago we might have celebrated Makhaya Ntini as a case study of our progress. Here we are in 2016 celebrating Kagiso Rabada as a case study. In other words we're in the same place we were 15 years ago, pointing to one player as an example of how it should work.

So it's not just about grassroots development, it's about building systems on top of that?
Exactly. We don't do talent ID in this country, we don't do talent development. So how can we possibly do the complex form of that which is transformation?

Are there countries which do this stuff well, which we could copy?
Germany's football development system is the best in the world. Tens of thousands of clubs, each with skilled, qualified, accredited coaches in the system. There is very little chance you would fall through the cracks. The same is true for Jamaica in sprinting and New Zealand rugby.

And it's not just about money in those countries, is it?
There's got to be a will and a way. We're questioning whether there is a will. In other words transformation might be more beneficial as a problem. So you've got to question if there is a will.

If there's not then we're all wasting our time, aren't we?
Yes.

Do you find it odd in view of the minister's latest stance that so recently he pushed for us to host the Commonwealth Games?
Yes.

Has anything changed since then in terms of transformation?
No. But the elections got closer.

Zero minimum wage equals maximum shame

Business is serving its own interests at the expense of the country by stalling on fair pay, writes **Angelo Louw**

THE introduction of a national minimum wage is a contentious issue that has been repeatedly delayed by a narrow focus on its potential impact on company bottom lines; but, as long as the country stalls on implementation, it digs itself deeper into despair.

As demonstrated in a 2015 working paper by the National Minimum Wage Research Initiative at the University of the Witwatersrand, the wage gap between poor and non-poor workers reinforces socioeconomic inequality. An analysis of the 2013 National Income Dynamics Study found that the average non-poor earner supports one other person financially whereas poor earners have a higher ratio of 2.65 people. This implies dependants of low-wage workers have little hope of escaping poverty because of limited resources, and that more people are likely to find themselves living below the breadline.

A national minimum wage is not the silver bullet that will address poverty and inequality in South Africa. It is, however, a proven means of addressing social injustice by closing the inequality gap and a significant step towards achieving a decent living level for all.

Criticism of the minimum wage is fierce, with politicians and business alike raising concerns around the potential negative consequences that they perceive will follow such a shift in policy, particularly layoffs of unskilled labour by businesses to counter the financial implications. The director of the Free Market

Foundation, Jasson Urbach, wrote in a recent Business Day opinion piece that "when the price of labour goes up to such an extent, the demand for it will go down". He said that because of this, the most principled case against the minimum wage is that it is "morally wrong". However, such a stance on the proposal is grossly misguided as it is the reluctance of business to invest in the economic wellbeing of their workers that is morally deprived.

That we are still unable to persuade South African business to partner with us in the pursuit of a decent living level for all nearly a year after

negotiations were meant to conclude, is not surprising. Too many business leaders remain guided by an outdated business ethic rooted in our colonial past.

Patrice Lumumba, the first legally elected prime minister of the Democratic Republic of Congo, famously said: "The colonists care nothing for

Germany has criminalised non-adherence to minimum wage legislation

influence over our country's future. Meanwhile, the long-awaited ratification by the government of the International Covenant on Economic, Social and Cultural Rights in April last year enshrined the right to work in South Africa as well as the right of everyone to just and favourable conditions of work. This includes the requirement that the government take steps to ensure that workers receive fair wages. Countries like Germany have gone as far as to criminalise non-adherence to legislation that guarantees a national minimum wage. What's stopping us implementing similar measures?

We cannot continue to allow business to violate the human rights of the vast majority of people in this country. Deputy President Cyril Ramaphosa's attempts to sweet-talk business... on the premise that the minimum wage will increase spending power and stimulate economic growth... afford business too much

influence over our country's future. Meanwhile, the long-awaited ratification by the government of the International Covenant on Economic, Social and Cultural Rights in April last year enshrined the right to work in South Africa as well as the right of everyone to just and favourable conditions of work. This includes the requirement that the government take steps to ensure that workers receive fair wages. Countries like Germany have gone as far as to criminalise non-adherence to legislation that guarantees a national minimum wage. What's stopping us implementing similar measures?

On Workers Day we pay our respects to those who have built our country. Few appreciated their sacrifices more than the former leader of the SACP, Chris Hani, whose words at the ANC Morogoro conference in 1969 continue to resonate.

"Our nationalism must not... be confused with the classical drive by an elitist group among the oppressed people to gain ascendancy so they can replace the oppressor in the exploitation of the masses," he said. "Victory must embrace more than formal political democracy. To allow the existing economic forces to retain their interests intact is to feed the root of racial supremacy and does not represent even the shadow of liberation."

● *Louw is the advocacy officer at Studies in Poverty and Inequality Institute, a South African think-tank specialising in research and analysis of poverty in sub-Saharan Africa.*