

WAS IT ALL IN VAIN?

By Dikgang Moseneke

The writer is a South African judge and former Deputy Chief Justice of South Africa. A former member of the Pan Africanist Congress, he spent 10 years imprisoned on Robben Island. He was admitted as an attorney in 1978 and called to the Bar in 1983, forcing it to abolish its “whites-only” membership rule. Moseneke served on the technical committee that drafted the interim constitution and was Deputy Chairperson of the Independent Electoral Commission which conducted the first democratic elections.



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We reprint here an extract from Dikgang Moseneke’s autobiography, My Own Liberator. It is a call to citizens to drive their development and that of their communities; to be their own liberators. He argues that those who become the authors of their destiny will have the ability to make the tender moguls impossible and limit the role of the political elite. He appeals to the young to chart a course away from consumerism and

toward reconfiguring the social structure that is stunting growth. First published in 2016, this piece is re-published in New Agenda because of its remarkable foresight and relevance to South Africa’s current social and economic crisis.

Was our democratic transition all in vain? There is no single and simple answer. I choose to start with the good news. We have managed a treacherous transition and set up ground rules that underscore our democratic ethos, public morality and governance. We have inducted a representative democracy premised on proportional representation and a closed party list. We have established and maintained a functional democratic state with all the customary markers, including multi-partyism, regular elections, and rule of law and separation of powers. Our parliamentary system functions more certainly at an elective than at a participatory level. In some parts of our country, local government functions and renders the basic services the law commands.

Our courts are independent and effective. Our institutions meant to police our democracy – the auditor general, the electoral commission, the human rights commission and the public protector, to name a few – have teeth and often they do bite. We boast a robust civil society that takes up social causes around just about every social concern: for instance, campaigns on land inequity, on defence of the constitution and the rule of law, on private and public corruption, on electoral probity, on HIV/AIDS and access to health care, on gendered violence, on access to quality education, on free expression and access to public information, on funding of higher education, on public transport and road tolls and, most recently, on the use of



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taxes. We have more than our fair share of open and public dissent and street protests, mainly by the unemployed and poor and worker formations. We have a strong labour movement, although now hobbled by economic stagnation and the large-scale laying-off of workers.

Our press is free, prying, fearless and unbending. None of our citizens has been jailed only for political, religious or other beliefs. Our levels of violent crime are tormenting, but we are not pitted against one another in an open civil war or genocide or terrorist attacks. Our transition has indeed yielded a measure of democratic dividend.

But now here comes the bad news – the wrinkles of our democratic transition. When the constitution was negotiated, the parties skirted around the need for social change. The negotiators did not stare in the eye the historical structural inequality in the economy. There was no pact on how to achieve the equality and social justice the constitution promised. Instead, the constitution imposed qualified duties on the state to facilitate access to social goods such as health, housing, water, education and social grants. But these socio-economic entitlements were premised on and limited to state transfers as and when funds were available. On the face of it, the protections were praiseworthy and they promised a state-sponsored reduction of poverty, but in practice socio-economic rights did not speak to how to restructure the economy in a way that rendered it more productive and inclusive.

The absence of a social pact was a far-reaching omission given the inequality embedded in the social structure of the country at the start of the transition. I am, however, not debating whether at the time of negotiations, given the balance of forces, a radical social pact was feasible. Short of an outright military conquest, probably it was not. I am



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simply observing the plain fact that an existing and insular economic arrangement survived the transfer of political power. This simply meant ownership of productive assets (plainly including investment to grow the economy) and management prowess by and large remained unaltered.

In a compelling study, *A Manifesto for Social Change*, the authors Moeletsi Mbeki and Nobantu Mbeki provide a graphic representation of the social structure our country inherited. The economic elite continues to own productive assets and to control skilled management; they are focused on maximising profits and retaining ownership. The political elite remains propertyless. Their prime strength is control of the state and its revenues. Their consumption is funded by the state coffers and not by profits garnered from productive activity or investments. The political elite seeks to retain power by increasing the consumption of the middle class and of the underclass of the poor and unemployed, on whose votes they depend to retain political control. But the political elite cannot themselves create jobs or invest in or expand the economy. They must earn the collaboration of the economic elite to do so. While the blue-collar workers form part of the formal economy, they, as the economy stagnates, face ongoing retrenchment, loss of membership and loss of influence on the political power elite.

On the other end of the scale, the underclass has neither productive assets nor management skills. They

operate outside the formal economy. They are unskilled, unemployed, poor and dependent on social grants. Social grants, like the salaries and benefits of the political elite, are state transfers only for consumption and not for investment or expansion of the economy. The only assets of the underclass are large numbers and their vote. The authors explain that intermittently the underclass, and so, too, blue-collar workers, resort to violence to express social grievances. The state, in turn, responds with counter-violence to quell the uprisings. That, the authors argue, explains in great part the unfortunate incidents such as the Marikana shootings of August 2012 and other acts of violence on protesters by the police.

After a cutting analysis, the same authors seek to explain the present economic stagnation by reference to a collection of causal and interrelated factors, the first being rapidly declining manufacturing. As they put it, the production machine has gone quiet. This deindustrialisation of society must be contrasted with accelerated private household and state consumption. They suggest that the country and its people are caught up in a capitalism of consumption rather than of production.

The second factor would be declining capital investment spawned by the reluctance of investors to commit to what they perceive as relative insecurity caused, in part, by an uncertain regulatory framework, misgovernance and corruption, and the ironic risk of deepening social inequality. The commodity-boom retreat is also cited as having a material part in the economic stagnation. The low growth, in turn, has led to growing government debt; blue-collar workers losing jobs; one in four able-bodied people being unemployed; and one in two youth unemployed. The authors conclude that stagnation inevitably leads to the onset of instability pushed >>

back now mainly by government transfers to the unemployed and poor.

This is a terrifying diagnosis. I am not an economist, but this time around, although not always, I follow what they are saying. The spectre of a stagnant economy yielding widening social inequality, stubborn unemployment, and a growing and poorer underclass is not only stressful but also deeply at odds with our notions of a just society. This threatens to wipe out our democratic dividend. Of course, the rule-of-law framework imposed by the constitution is important. It continues to represent the minimum agreement and common convictions of our people. It has drawn heavily from and is well aligned with minimum international standards of human rights and human decency. It has created a valuable framework for holding the ruling elite to act within the law and in the best interest of the people.

It requires us to weed out all corruption, and wasteful and unauthorised expenditure at all levels of the state and by and within independent private capital. Patronage and inept and incompetent public appointments, corrupt tender practices and so-called state capture all strike at the heart of fundamental features of our law, our democratic ethos and the mortal fight to equalise society.

The people, courts of law, civil society and all democratic institutions ought to ensure meticulous compliance by all, and by the political elite in particular. In all this, democratic accountability is all-important. Not the judiciary, not the public protector, not other constitutional watchdogs, but the people are the final arbiters of who, how and for how long a party or person may act in their name and in their stead in public office. I am stating the obvious: the real guardians of our democracy are the citizenry. In the space that representative democracy affords, citizens ought not to hesitate,



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if warranted, to hold the feet of any ruling elite to the fire. Ordinarily, democracy is premised on insecurity of tenure. Elected representatives hold office only at the pleasure of the people (provided the electoral system is credible). For that reason, regular elections and a limited term of office are vital features of democratic accountability. They are the means by which the people and not the political elite govern.

And yet often on our African continent leaders subvert popular accountability by evading limited terms and staying in power for decades. Some go so far as to fiddle with the electoral process. Many overturn the democratic prism by making the people subservient to the leader. In that low scenario, personal and public agency of the people wilts, economic growth stalls and the political elite feed off the only material resource – national treasury, which is made up mostly of loans, foreign aid and meagre revenues.

Going back to our constitutional arrangements, it is well and good to have the near-perfect normative standards, but they are not a panacea. Even if they were, they are sometimes observed in the breach. So the normative standards tell us little

about how to achieve inclusive growth in a way that overcomes structural economic inequality and resultant low growth. This must surely mean that the national conversation, particularly with the youth, must urgently concentrate on what is hurting the people of our country most – economic inequality and stagnation.

Should we not be pointing our young people to some obvious and burning questions? For example, how, within the discipline of our constitution, do we collectively reconfigure the social structure of our country? What structural changes to the economy are necessary to create a wider spread of access to productive existing and new assets? Where would the access to and use of land be located in that debate? Closer to home, and crucially, how might the unemployed and poor underclass escape the constraints of capital and management skill and join economic production? What stance should the working class assume to push back retrenchments and increase their numbers? Is it true that we need to industrialise again? If so, how do we get the production machine to hum again – and sustainably? Put more simply, what plans do we need to create new captains of industry, entrepreneurs, new jobs and new economic output? How do we shift the national paradigm from consumption to savings, investment and manufacture? How do we, in time, convert the consumption of social grants to production and excess? What should the ideal regulatory framework be within which domestic and foreign direct investment would be ratcheted up?

The next complex question is by which fiat should the economic debate be kick-started again and in earnest? Should all social classes be drawn around the table to fashion a restructuring plan? I can almost hear the murmurs saying that all this has been tried before. Yes, but it is far

more urgent now than ever before in the 22 years of democracy South Africa has had. The political elite alone are unlikely to achieve that fiat despite their perennial claim that they can fix the economy and create jobs. History has shown us differently.

The economy, not the political elite, yields jobs. We should also disabuse young people of the fallacy that joining and worshipping the political elite is the only valuable path to personal reward or national growth. Their campaigns must refocus from a bid to access political favours to productive roles that will in time reduce the social distance and deficit our nation is staring in the face. We must shift the paradigm away from political party bigotry and contestation towards models that emphasise hard-nosed economic skills. Businesses matter. New goods and services are primal. Economic activity has everything to do with destruction of the social burden. Our youth must look to themselves alone or collectively to enter economic activity. We must again remind the youth of the indispensable place of learning and acquiring useful skills. Let us restore hard work and determination to their rightful places.

But above all, we must assure our youth that honesty matters. Integrity, particularly in public life, in business, at the workplace and in all



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social interactions, is indispensable. Truthfulness and honest dealing in the public space must never be sacrificed at the altar of convenience or self-benefit.

Each young person must search for her or his chosen field and then work it hard. In time, this will add to the domestic product. No true success comes easily. Young people must strive for a day of decent work, whether this is in the formal sector or, even more importantly, outside it. Let's urge our young citizens along a path of newness, of creativity and of self-reliance. The youth must shun patronage. They must turn their backs on mindless consumption and instant gratification. I urge them to embrace the difficult fact that resources, whether private or public, are scarce. Bluntly, beyond the defined public obligations of the state, nobody is entitled to have their private needs fed or to being dissatisfied when they don't get this and more. The better social ethic is not always to demand and demand that one's needs are met but rather to go out there and help to find real, fair and lasting solutions. To borrow from the Great Trek pioneers, although in a different context, who reminded themselves: 'n boer maak a plan. Go out there. Make a plan.

For instance, it is vital that we introduce a fresh ethic on how we make space for the ever-growing underclass of the unemployed and poor to gain access to productive resources. Should the state not devise models in which homeless people, appropriately supported with public resources, build their own homes, clinics, roads and public facilities? Why can't the model be extended to planting their own trees and producing their own food? Why can't we have, with appropriate and patient training and financial support, villagers building their own boreholes, dams, piped water, sewerage, roads and irrigation facilities? Why is it necessary always to call for state tenders on areas of development well suited to be executed by the people who are



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otherwise jobless and dependent on social grants? When we do this, are we not, in effect, directing resources to the already productive class and only deepening the hopelessness of those on social margins?

What I am suggesting is that, carefully and thoughtfully, social grants could be converted from consumption to productive spend. Similarly, a reduced state salary bill could also be directed towards development. We must think hard about how we free our marginalised people from only waiting and waiting for the delivery of something by the state. Let the tender moguls step aside and let the people develop their countryside and informal urban settlements. Why not? It would surely go some way to restoring their sense of self-worth. In my parlance, the people must again move towards their personal and public agency.

You may have sensed that I am pleading that our country finds the ingenuity to resolve its social injustice, because no one should be called upon to fight two revolutions in one lifetime. It comes back to my swansong: each one of us is his or her own liberator and together people are their own liberators.

God bless.

New Agenda thanks the publisher of 'My Own Liberator' for permission to reproduce this extract from the Epilogue. 