

SA Reconciliation Barometer

Tracking socio-political trends
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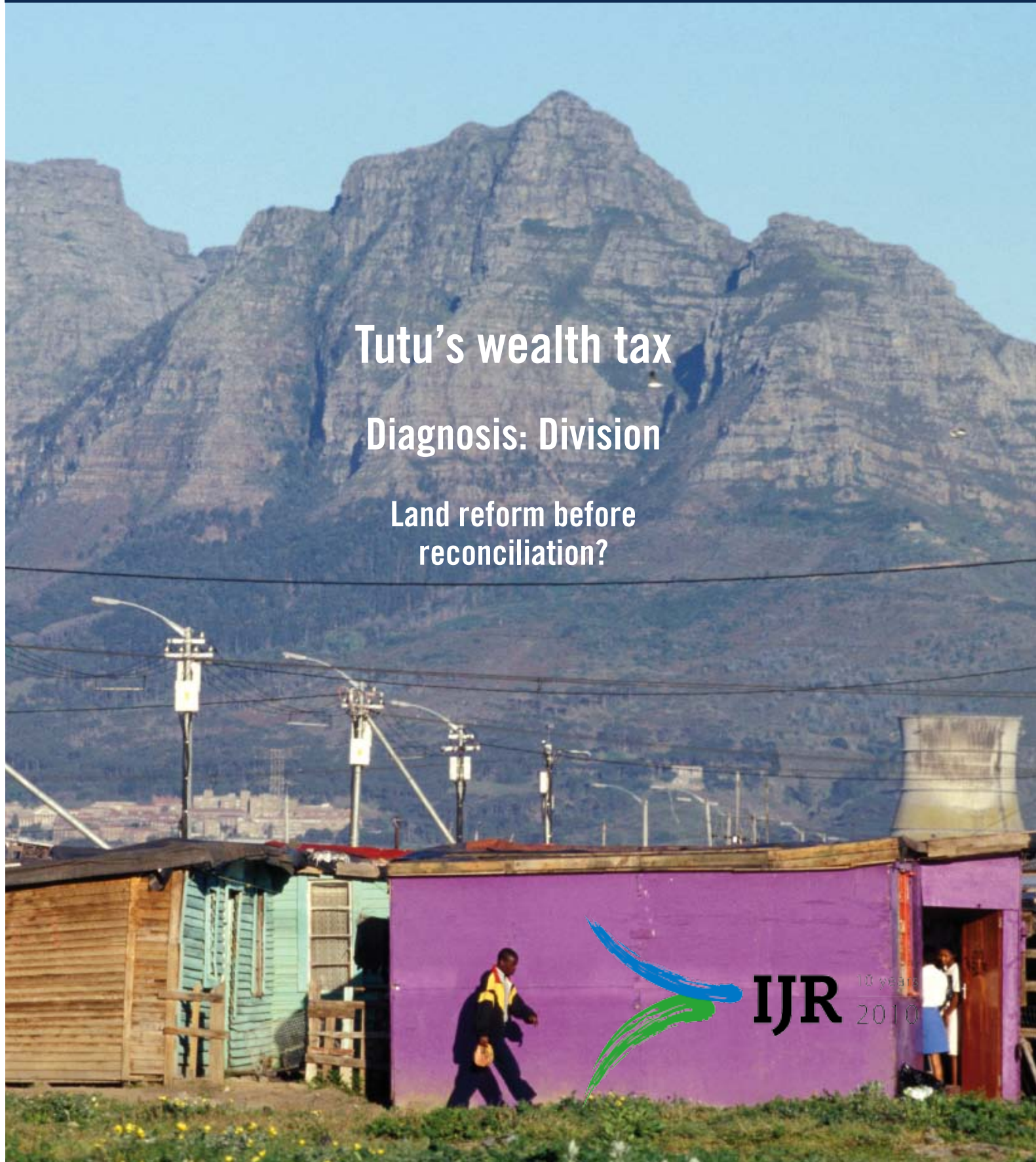
Tutu's wealth tax

Diagnosis: Division

**Land reform before
reconciliation?**



IJR 10 years
2010





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editorial

Among the stories and media reports inundating South Africa over the past few weeks, I have found myself both preoccupied and perturbed over issues of 'justice' – when is 'justice done'? Are symbolic gestures of justice important? And, to interrogate an age-old cliché, is justice delayed really justice denied? And what a week this has been for writing about justice.

In the streets of Gauteng, thousands of ANC Youth League members marched from Johannesburg to Pretoria to demonstrate discontent with the slow pace of South Africa's economic transformation, which is indeed an injustice.

Meanwhile, ruminations on justice were also taking place in the quieter halls of the Union Buildings. The announcement of a special press briefing by President Zuma caused a flurry of speculation, not least in the chattering 'Twitterverse'. Cabinet reshuffle? A response to the damning recent reports released by the Public Protector? Changes within the cooperative

government ministry given the protracted medical leave of Minister Sicelo Shiceka?

The president addressed all of these issues and more. First, in nothing short of a Cabinet spring clean, both Shiceka and the public works minister, Gwen Mahlangu-Nkabinde, were shuffled out of their respective ministries altogether. Shiceka faces allegations of a breach of the Executive Ethics Code, while Mahlangu-Nkabinde was implicated in the Public Protector's investigation into lease agreements for the South African Police Service (SAPS) premises in Durban earlier this year.

Next, the president announced the constituting of a commission of inquiry into the arms deal, with a term of two years, following years of dedicated advocacy by civil society and, most notably, the indefatigable Terry Crawford-Brown.

Last, but certainly not least, President Zuma announced a board of inquiry to look into allegations of misconduct against the national police commissioner, Bheki Cele, also based on the findings of the SAPS lease investigation.

In reality, these announcements are long overdue. Yet there can be no doubt that for many South Africans, these actions will inspire some confidence that justice is 'being done', or at least that its proverbial wheels are now in motion. Is this significant? Or has too much time passed, too many exit strategies been offered?

I don't yet feel I have the answers to these questions, but much of the focus of this issue of the Reconciliation Barometer newsletter is on justice – from the outcome of the case against the ANC Youth

League president, Julius Malema, in the equality court and the treatment of gang violence in the Cape Flats to the International Criminal Court's (ICC) intervention in Kenya.

This issue also focuses on justice in a broader sense, in terms of redistributive and social change.

First is an article by the IJR executive director, Dr Fanie du Toit, who writes in support of Archbishop Emeritus Desmond Tutu's controversial call for a wealth tax. This proposal first appeared as a recommendation emerging from the Truth and Reconciliation Commission. The time is right, Du Toit suggests, for significant gestures of reconciliation, particularly if driven by leaders in sport, politics and business.

After the Diagnostic Overview, developed earlier this year, the National Planning Commission will release its first report in November, which begins to chart a path for overcoming South Africa's significant current challenges, and towards a vision for the country for 2030. I examine some of this relatively new government body's findings related to the specific goal of nation-building.

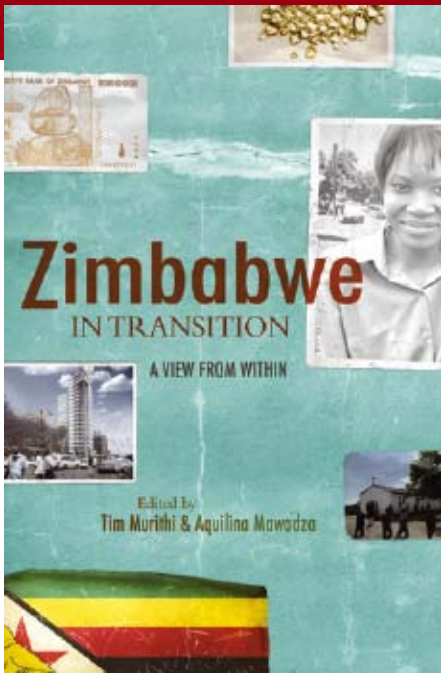
Also with a focus on new and forward-looking documents recently released by government, freelance writer Osiame Molefe focuses on land reform as a strategy for reconciliation and economic redistribution. Looking at the newly released green paper, Molefe finds positive possibilities despite a poor track record thus far.

IJR programme head Jan Hofmeyr responds to the hotly debated outcome of the case between ANC Youth League president Julius Malema and Afriforum – a case, he finds, that should 'never have been'. From another perspective on justice, Sharon Vermaak recounts the challenges of living in a community frequently plagued by violence, with a complex relationship with organised criminal gangs, and often misrepresented by the mainstream media. She suggests that addressing local problems, such as high rates of youth unemployment, crime and the legacy of the historic divisions of the past, require debate, dialogue and greater unity.

Finally, moving outside of South Africa, Allan Ngari unpacks the political implications of the intervention of the ICC, concluding that this is one of but a range of necessary tools and strategies to bring about a more sustainable and lasting peace, political stability and social cohesion.

I hope that you enjoy this issue of the Reconciliation Barometer newsletter, and as always, your comments and feedback are welcome at www.reconciliationbarometer.org.

Kate Lefko-Everett
Senior project leader: SA Reconciliation Barometer



NEW IJR BOOK ON ZIMBABWE

Earlier this month, Jacana and the IJR's Justice and Reconciliation in Africa programme released a new volume entitled *Zimbabwe in Transition: A view from within*, edited by Tim Murithi and Aquilina Mawadza. The book's point of departure is one of recognising the challenges Zimbabwe has faced post independence and in the era spanning political and economic crises since the late 1990s. *Zimbabwe in Transition* examines both current and historical dynamics shaping developments in the country, and includes contributions from a broad range of voices from civil society, faith-based communities, the diaspora, women, community leaders, the media, youth and regional actors such as the SADC and the AU.

DATA ANALYSIS WORKSHOP

From 14 to 18 November, the Policy and Analysis programme will be convening an intensive week-long quantitative data analysis workshop, together with the Centre for Social Science Research (CSSR) and the DataFirst Centre at the University of Cape Town. The seminar will be taught by Professor Rajen Govender of the sociology department and Dr Pedro Wolf of the department of psychology, and will focus on analysis of the findings of the Reconciliation Barometer survey. More information is available at <http://www.cssr.uct.ac.za/training/sarb>.

NON-RACIALISM CONFERENCE

In October, Kate Lefko-Everett and Ayanda Nyoka of the Policy and Analysis programme participated in a conference on 'From words to action: The challenges of deepening non-racialism in South Africa', hosted by the Ahmed Kathrada Foundation with the Gauteng City-Region Observatory, the Centre for Critical Research on Race and Identity and the Centre for the Study of Democracy. The conference followed a round of qualitative focus groups commissioned by the Ahmed Kathrada Foundation on the topic of non-racialism, which were conducted around the country earlier this year. Research findings were analysed, discussed and debated at the conference, and plans are underway for the publication of a special issue of the *Politikon* journal, which will focus on these findings.



Take heed of Tutu tax

The recent stir caused by Archbishop Emeritus Desmond Tutu's suggestion of a wealth tax for privileged South Africans should not overshadow the merits of this proposal, writes FANIE DU TOIT.

Tutu's comments came at the book launch of well-known theologian John De Gruchy's *The Humanist Imperative*, which focuses on restoring humanity and dignity to South Africans, and echoes one of the TRC's most discussed proposals: that of a once-off wealth tax as a gesture of reconciliation. Subsequent debate has explored questions of whether such a tax would be levied on white South Africans or on all affluent citizens, and if in fact the state is the best vehicle to administer such a gesture.

Tutu's essential contention has been that our reconciliation process is unfinished. Its completion requires more than a 'business as usual' attitude from those who live in affluence alongside fellow citizens in desperate need. 'How is it possible that in such a well-resourced country so many people go to bed hungry at night?' Tutu asks.

The counter-remark that income tax is a sufficient contribution to alleviating the plight of disadvantaged citizens is simply disingenuous. That a larger proportion of white South Africans is able to pay taxes can without doubt be ascribed to our apartheid past. Paying tax is a legal obligation and without it to bolster the economy white South Africans would suffer together with all other citizens.

White interest groups, including the FW de Klerk Foundation and Solidarity, have described Tutu's call as unconstitutional, an indictment on the humanity of white South Africans, and a potential catalyst for repolarising society. My questions to these organisations are simple. What alternatives can you propose that would promote reconciliation and a more inclusive, fair society? Do you think that South Africans have really reconciled, and that those of us who have benefitted from the past are now free once again to get on with our lives despite rampant and growing inequality in our society?

I do not doubt Tutu's intentions for one moment. He has never been interested in humiliating white South Africans; rather, he has prioritised rehabilitating *the humanity* of white South Africans. His philosophy is surprisingly uncomplicated: the dignity of black and white South Africans cannot be restored in isolation from each other. We need each other for mutual healing and our ultimate survival. Our unique past requires exceptional measures, not only in economic terms, but also as far as our

collective psyche is concerned, in order to restore this mutuality which apartheid sought to nullify.

Tutu has also maintained that 'bygones do not in fact become bygones, but always return to haunt us', referring to phenomena such as self-hate, violence and a reckless disregard for life. 'We thought that things would improve with time, but we were wrong,' said Tutu.

The essence of this message is that all of us – black and white – need healing. And for healing to occur we need each other; without it none of us have a future in this country. In Tutu's view, a wealth tax would be a significant gesture that could become a catalyst for healing.

The failure to understand this message on the part of white interest groups is a tragic missed opportunity. In the years immediately following the political transition, white South Africans have largely been left in the lurch by their leaders' half-hearted approach to nation-building. This has contributed to a significant sense of alienation from the rest of the population. A new gesture, whether in the form of a wealth tax or something else, is arguably necessary to end this sense of isolation.

It's time we learnt from our past. In 2001 a group of white South Africans launched the 'Home-for-All Campaign', which worked to persuade members of this group to simply acknowledge – not even apologise for – the source of their privilege by contributing a symbolic amount to a centrally administered fund. This promising initiative was endorsed by the entire Springbok team, but the Sunday paper, *Rapport*, torpedoed it with a headline that read something like, 'Whites required to apologise and pay up'.

This Campaign drew an important distinction between 'acknowledgement' and 'apology' – one that the *Rapport* clearly failed to notice. When black South Africans ask for acknowledgement and a symbolic gesture, what white South Africans hear is a demand for contrition and payment. But there is a huge

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difference. Our European protestant roots may have something to do with how we've understood, or failed to understand, the request – we always seem unable to hear what black South Africans are actually saying.

Reconciliation demands exceptional gestures that challenge conventional ways of doing things. Why is acknowledging privilege so important? Recognising facts honours and empowers others as well as one's self, and can lead to effective action. A culture of lying and eternal confession leads to powerlessness and permanent paralysis. The unique once-off tax would therefore present white South Africans with the opportunity to take a proactive step to making a difference in the lives of fellow citizens.

For this reason it would perhaps also be better if the state didn't manage such a tax. Greater impact would be achieved if prominent white South Africans in sports, politics, culture and business endorsed the cause and gathered up resources. Support of this kind could also lead to smaller local initiatives, hopefully

to the benefit of thousands or even millions. Launching this initiative would also send a profound message to those whose lives have not changed much in the new political dispensation.

Even if we disagree with the historical grounds for restitution, the pragmatic ones cannot be ignored for much longer. If recent events in Europe, the Middle East and North Africa have taught us anything, it is that social inequality is not sustainable. The material well-being of all South Africans is becoming increasingly intertwined with that of the most marginalised in society. Seen from this perspective, an appropriate gesture of recognition and commitment is also an investment in a better and shared future. All South African 'haves' – black and white – should know this. And given South Africa's history of racial privilege, it is morally incumbent on white South Africans to take this first step. 

Dr du Toit is executive director of the IJR.

Diagnosis: We're still divided



KATE LEFKO-EVERETT examines the National Planning Commission's recommendations on nation-building, and finds that important work is needed to better understand the complexities of current sources of social division.

In June of this year, Minister in the Presidency Trevor Manuel released the highly anticipated first report of the National Planning Commission (NPC) since its establishment in 2010, entitled simply the Diagnostic Overview. The NPC's mandate, as captured in a green paper first tabled in 2009, includes strengthening government's ability to plan for the long term, increasing coherence and prioritisation across departments, and mobilising South Africans around a set of common national goals and values.

The report sets out nine key challenges facing South Africa, which have been identified by 25 appointed NPC commissioners. These are, in broad terms: high unemployment; low quality of education for black people in particular; inadequate infrastructure; significant spatial development challenges; a resource-intensive and unsustainable growth path; an ailing public health system unable to cope with the national disease burden; uneven public service performance; corruption; and finally, that South Africa remains a highly divided society, even after 17 years of democracy. The report also contains elements of the draft vision statement for 2030.

Speaking in Parliament, Manuel framed the release of the Diagnostic Overview as the beginning of a process of 'engagement about our collective future as a nation', and one that will involve 'dialogue, consultation, debate and analysis'. According

to the report, it is hoped that this will lead to contributions, and ultimately broad acceptance and support of the 2030 vision. This engagement process appears to have begun with considerable steam over the last few months; in addition to several provincial consultations, the NPC recently hosted an online 'NPC Jam'. With more than 10 300 logins and 8 700 individual posts over a 72-hour period, many of them by young people, the NPC has described the Jam as the 'biggest online dialogue ever held in Africa'.

The release of the Diagnostic Overview represents an important starting point in the work of the NPC, as do these first consultations. And while it will be very important to intensively analyse their findings, I would also suggest that few in South Africa would disagree with the Commission's initial prognosis. We know that there is an urgent need to improve education and skills development, and to increase labour-market participation. We know that service delivery varies significantly and is not universally equitable, transparent or efficient for all citizens. We also know that we need to begin building more inclusive and productive cities which are also sustainable.

In fact, some among us might look forward impatiently to the prospect of 'quicker fixes' before 2030. But our appetite for 'quick fixes' is exactly what the NPC aims to mitigate, particularly when these come from different corners of government,

and even at times appear to be competing or contradictory. In this sense, the role of the Commission will be to rein in, sharpen, streamline and generally cohere policy and programmatic initiatives across various departments and agencies into a surer direction for the state as a whole.

Although a relatively new body, the NPC's path – perhaps ironically at times – will be eased in some sectors by the tried and tested, and sometimes discarded, interventions, policies and programmes of the recent past. From the RDP and Batho Pele, to GEAR, JIPSA, ASGISA, BEE, OBE and the New Growth Path, South Africa has chalked up both successes and lessons learnt in the fields of human, physical and economic development, even if these are of the 'what not to do' variety in the worst-case scenarios. These focal areas also have legislative and policy homes in dedicated national and provincial departments.

More elusive, perhaps, will be addressing the challenge of overcoming South Africa's deep social divisions. Brought to life in the Constitution, this cross-cutting challenge occupies a more nebulous, grey policy space shared by various agencies, including the Presidency, the departments of social development, justice and constitutional development, and arts and culture, and the Chapter 9 and other independent institutions. Further, the Diagnostic Overview remains just that – an overview – and will require an additional keen and incisive dissection of the current state of affairs before responses or future plans are developed, particularly with regard to the challenge of social division.

Much of the focus of the Overview in this regard, as well as of the subsequently released Nation Building Diagnostic, is on race as the foremost social cleavage in the country today. Both documents also refer to social fault-lines created by language, ethnicity, urbanisation, gender and patriarchy, and economic class, but as the Overview states, the 'major dividing line is still race'.

Certainly, there can be no question that divisions along historically defined racial lines persist. Further, there is no doubt that racism, prejudice and stereotyping remain sources of lurking rot in post-apartheid South Africa.

However, recent research also suggests that sources of social division are in fact complex and changing, and have not remained static since 1994. Earlier this year, the nationally representative Reconciliation Barometer survey found that a majority of South Africans believe that economic inequality – and not race, ethnicity, language, or religion – is the biggest division in South


Africa today. This percentage increased from 25% in 2010 to 32% in 2011. A further 22% of South Africans believe the biggest division in the country is that between members of different political parties, while 20% believe it exists between citizens of different historically defined race groups.

The Reconciliation Barometer survey also evaluates public perceptions regarding changes in South Africa since 1994. In 2011, 49% of South Africans believed relations between different historically defined race groups have improved since the transition to democracy. Only 20% believe that the gap between rich and poor has narrowed during this time, and in fact, 49% believe economic inequality has worsened.

Importantly, the Reconciliation Barometer also consistently finds that interaction, and the development of close social relationships and friendships across historic racial lines, is significantly linked to income inequality. Socialisation is dramatically more prevalent among South Africans from affluent households with high living standards, and declines enormously among poorer households.

These findings are also confirmed by the narratives of ordinary South Africans around the country, as captured in a recent qualitative study on non-racialism conducted by the Ahmed Kathrada Foundation. In focus group discussions, numbers of South Africans suggested that 'it's money that tears us apart', and that 'if we can't be one in our economy, we can never be one as a nation'. As the results of the Reconciliation Barometer suggest, some felt that socialising across socio-economic class lines is difficult because 'if you're in the same class bracket, you connect'; others explained that 'rich people find it easier to accept each other', and that 'all poor people of all races have a lot in common'. A final stark and important finding was the view among some South Africans that race matters much less for the economic elite. Research participants commented that they felt 'rich people do not care about race issues', that 'the rich do not bother about race and colour' and that 'rich people don't care about race because they have money and they can do what they like'.

Taken together, these research results show a changing social landscape. They allude to both the possibility of new social formations and solidarity groups, and emergent and deepening sites of exclusion – fault-lines that we mustn't underestimate or overlook as we attempt to work towards a more inclusive, cohesive and unified South Africa.

That the NPC has begun to frame this critical national conversation is an important first step, as is its call for ongoing public engagement on questions including how best to build a strong national identity that transcends race, and how to reverse deepening inequality. It is now important that civil society, public and academic institutions, and citizens take the initiative to respond. 

Kate Lefko-Everett is senior project leader of the Reconciliation Barometer at the IJR. A version of this article first appeared on sabc.co.za.

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Land reform and reconciliation

Though reconciliation and social cohesion remain elusive without significant economic change, OSIAME MOLEFE finds that effective land redistribution could increase the pace of these processes.

It has been known from the beginning that national reconciliation would be impossible without economic redress. It is known, too, that it is impossible to talk about economic redress without talking about land reform. But for many reasons – the lack of political will, the need for economic stability, concerns about food security, to name a few – the discussions and actions around land reform have largely been ineffective.

The recently released green paper on land reform is the latest attempt at getting this process back on track. It rightly takes the view that ‘social cohesion, just like development, is a direct function of land access and ownership’, and sees the state as playing a central role as an investor in the transformation of land relations.

To give real-life applicability to how land access and ownership have a direct impact on social cohesion, one need only look at the recent spate of so-called service-delivery protests. The chairperson of the Western Cape anti-eviction campaign, Mncedisi Twalo, says that the violence that gripped Hangberg near Hout Bay, and many other townships around South Africa, was not about service delivery, it was about access to land. Twalo says that the lack of economic development and land reform has resulted in massive migration from underdeveloped, mostly rural areas to large urban centres. The land invasions that cities like Johannesburg and Cape Town have battled with, both in the courts and in the streets, are a direct result of this pattern of migration, which has resulted in a build up of poor black people on the fringes of urban centres.

Statistics South Africa’s reports on inter-provincial migration since 1994 have shown a consistent pattern. Gauteng and the Western Cape have had positive net migration and the other provinces, especially the Eastern Cape, have had negative net migration. Over the past 17 years, this pattern has put strain on the development resources available to the two provinces and their major cities, and the resulting social problems have done damage to social cohesion and set back reconciliation.

In a way, despite the abolition of influx control laws and the natives land act, the geographic and socio-economic makeup of the country’s urban centres has remained largely unchanged from that created by apartheid. Skirting each city are poor, landless black people who commute into the city centre for

work and return to their underdeveloped townships at the end of the day. The makeup of our cities, admittedly, has changed slowly to reflect an increasingly more racially balanced pattern – mainly as a result of the small but growing black middle class – but it would be incorrect to draw inferences on reconciliation from this.

It has become commonplace to say that the inequalities that exist in South African society are no longer polarised by race, but by class. This is taken as evidence that significant progress has been made with reconciliation. This view is problematic because it masks a still fractured society whose racial disharmony seeps out in other ways. Cape Town’s corporate sector, for example, is still dogged by accusations that black people are marginalised and treated unfairly. Whether this is true or not does not matter as the mere perception of systemic racism within a sector so large is enough to damage social cohesion.

Another example of how the masked racial disharmony has seeped out is the departure of black business organisations from Business Unity South Africa (Busa), an organisation that was supposed to represent black and white business interests in a unified way. The black organisations – disgruntled over how the face of business in the country has not changed – quit the partnership and re-established the Black Business Council as an organisation that stands apart from Busa. In fact, the tone of the interaction between the two so far has been such that elements within the Black Business Council see themselves not only as set apart from but also as adversaries of Busa. Even among people of the same social class, racial disharmony and distrust still exist.

Besides, suggesting that reconciliation has grown because inequality is now on the basis of class is completely meaningless – inequality by class is no more desirable than inequality by race. Both do nothing to bring about social cohesion.

The role that land reform can play in reconciliation is huge. It has the potential to address the push and pull factors behind the post-apartheid pattern of inter-provincial migration, and can also address the inequalities reflected in urban geography. This, in fact, is one of the green paper on land reform’s stated objectives. Land reform, when effective, also bolsters poverty-alleviation efforts.

What has thwarted the process so far is the view that land



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reform is a zero-sum game; that one group's gains are only possible at the expense of another's. This has been the root cause of the failure of the willing-buyer/willing-seller approach. Land, as an asset and as a resource, is one that few give up easily even in a competitive market. The scarcity of prime agricultural land and questions on the availability of an equally robust alternative asset (into which proceeds from a land sale may be reinvested) weigh heavily on the minds of potential sellers and, as has often been seen, act as a disincentive to selling.

The green paper attempts to address the willing-buyer/willing-seller problem through partnerships with commercial farmers on a risk-sharing basis, and sets up a land management commission to coordinate, advise and regulate land reform. It also sets up agri-villages that allow farm workers to own houses and have access to agricultural land.

Whether these proposals are enough or if they can be effective will be debated during the green paper's consultation period. But what is clear is that the tone of debates on land reform needs to change. Many understand the policy is necessary, but seem to disagree on the technicalities. However, the degree of disagreement has been so great that it has delayed the process at both the policy formulation and implementation stages. What appears to have been lost in the debate is that further delaying the process further defers reconciliation and will result in a lose-lose scenario for everybody concerned. [if](#)

Osiame Molefe is a freelance writer.

Youth at risk: Growing up with gangs

SHARON VERMAAK confronts uneasy questions on youth and gang membership in the Cape Flats, and looks to democratic tools and processes as strategies for healing communities.

Over the past few months gang-related violence has gripped communities in the Western Cape, traumatising communities such as Manenberg and Hanover Park. Often with front page headlines, the media has been quick to sensationalise – and to draw broad conclusions about – what ‘coloured’ people are doing to each other in the so-called Cape Flats. My neighbours in Hanover Park have been variously described as drunken, disorderly, misguided and poor. While I admit that these problems do exist within our community, as they do throughout South Africa, the majority of the people residing here are decent, hardworking, and wish to live in a Hanover Park that is peaceful and safe.

Unfortunately, gang-related violence is often reported without any real interrogation of the reasons for the social ills in communities such as Hanover Park. Instead, readers are left to believe that the situation in the Cape Flats is hopeless, helpless and a virtual war zone.

Sometimes it is not hard to succumb to this belief. I write this article at close to 3am on a Saturday morning. I can do so tonight because I don’t have to cower in fear of bullets raining down on my house. Hanover Park has been quiet since the police arrested many of the Mongrel and Americans gang members over the last few days. My household can sleep ... but I can’t. I am sure my neighbours’ sense of security has been as badly shaken as my own. Cape Flats communities have always had a history of violence, but the degree to which it has escalated in the past few months has been more than we can endure.

What keeps me awake at night are questions of how we can bring about a lasting and meaningful change in Hanover Park, beyond the temporary peace in the streets, and when gang members are again released by a justice system that can only contain them for so long.



I am trying to work out how the problems that lead to the violence can be solved and our communities healed. I have spent the past week debating this problem with my IJR colleagues as well as with those fellow community members who are working hard to improve the social situation in Hanover Park.

I don’t think anyone should take this violence at face value. Why are bullets flying between the brilliant and capable young men and women around us, and why are they holding their own communities to ransom? Why does gang membership still hold so much appeal? Where are we failing these young people?

Conversations with my neighbours brought up several opposing views. One young Hanover Park resident felt that gang members in the area should all be arrested and imprisoned, particularly given their central role in the local drug and sex-work trades, as well as in frequent incidents of violence.

Her husband, however, had a somewhat different view. Gang members have met the needs of community residents in ways that sometimes public and private service providers are unable to do: some employ residents to keep local streets clean and create community gardens. They provide loans and financial assis-



tance, and for some, an opportunity for income. They operate informal security networks and area patrols. And they have their own systems of justice.

In a way, both are right. Young men and women in Hanover Park and across the Cape Flats have found acceptance within gangs when few other opportunities are available to them. Many face long-term unemployment, and lack resources to access further education. They have knocked on endless numbers of doors looking for employment and other productive opportunities. Like many South Africans, the young people of the Cape Flats believed that hard work and good matriculation results would secure them a decent job or higher education. Instead, they encounter a saturated system. What choices do you have if, never mind your own ambitions, you simply want to help pay the rent or feed your brothers and sisters who are still in school?

One thing is certain: this is not a one-dimensional problem with one simple solution. Is the violence of today the result of our unresolved past? Will the cycle of violence end only when the past is dealt with and, in the words of Mamphela Ramphele,

our ghosts are laid to rest? Is it an economic issue that needs addressing in South Africa as a whole? Or should economic empowerment and development be specially tailored for smaller communities like Hanover Park?

Through this untenable violence comes an opportunity to discuss these questions as a community. Our democratic tools and processes – dialogue, workshops, storytelling and listening – are our only hope. If we do not make use of these tools, our democratic system will fail, much like the previous system failed our whole nation.

Like the majority of people in Hanover Park, I am not drunk, drugged or disorderly. I have a sober mind and I am willing to use it to help heal my community from the inside out, for the sake of our youth. And in these quiet moments, while the gangsters are off our streets, I dream of a better future for us all. Let's work together to make my dream a reality. 🇿🇦

Sharon Vermaak is project officer for the Ashley Kriel Youth Project of the Building an Inclusive Society (BIS) programme at the IJR.



A trial that should never have been

JAN HOFMEYR responds to the outcome of ANC Youth League president Julius Malema's hate speech trial.

While the South Gauteng High Court's verdict in Julius Malema's hate speech trial may have surprised many, the eventual polarising impact of a ruling either way was never in doubt. The extreme tone of public responses to its outcome thus far – elation and outrage, with very little in between – is telling because it not only underscores our high levels of social division, but also the extent to which ordinary citizens on both sides of the debate felt they had a vested interest in its outcome.

It is a trial that should never have been. Technically, the court was asked to pronounce on its interpretation of a provision which is intended to protect the dignity of all citizens. Yet, in practice any judgment was bound to be viewed as a mutually exclusive validation of the distinct traditions of the two parties. Inevitably the perception for some – and hence the reality – would be that judgment also amounts to a pronouncement on the legitimacy of deeply rooted emotive claims to dignity, apart from those generic rights linked to citizenship. In as far as its ability to forge social harmony is concerned, the court, and by extension the judiciary, was therefore ultimately set up for failure.

When questioning the wisdom of filing the case at all, the

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driven to the brink.**

broader question also needs to be asked as to why Afriforum would have opted for this zero-sum strategy when surely more constructive resolutions were possible? A series of events over the past year suggest that Afriforum's absolutist approach is not unique, and that it mirrors the rigid terms that have framed many other debates during the same period. The long list includes, but is not limited to, recent excessive wage demands backed up by tacit threats of, and actual, violence; equally excessive increases in executive pay that defy reason when more restraint would have sown sensitivity and possibly even solidarity towards the growing number of unemployed; the splitting and re-racialisation of organised business at a juncture where the economy can least afford it; the no-tolerance attitude of the police that has resulted in at least one publicly televised killing of an innocent protestor; and, more recently, the reactionary response of several predominantly white organisations to suggestions by Archbishop Emeritus Tutu that white South Africans ought to contribute more financially towards undoing the injustices of apartheid.

While these responses may have diverse origins, they share an underlying tone of intransigence, which increasingly seems to gain the upper-hand in our national debates at the expense of inclusive and consensus-seeking processes. It is a discourse of suspicion and anger that only caters for winners and in which the cost of losing is too high to bear. As a result, stakeholders in opposing camps, across social and economic policy spectrums, are becoming increasingly combative. And for the same reason, the situation is becoming increasingly untenable.

Surely South Africans in all spheres could have done more


to avert situations like this, where we constantly seem to be driven to the brink. Economic injustice, of course, represents our society's most pronounced fault-line, but the origins and consequences of its deep structural roots cannot possibly be eradicated overnight. In the absence of quick-fix solutions, we need to find new ways of talking to each other, and to invest in existing institutions that hold the potential to expedite more inclusive forms of social transformation.

Against this backdrop, it is not unreasonable to argue for more urgency within government to empower the so-called Chapter 9 institutions in terms of their jurisdiction and resources. As institutions that have been tasked to protect the values of the Constitution, they have the potential to mitigate the potential impact of polarising court cases at a much lower level of administration. Yet the Asmal Report, which suggested far-reaching changes to their functioning, seems to be gathering dust in Parliament's library.

Organised business and labour should work together to create jobs in ways that promote the longevity of businesses as well as the interests of workers. Too often it appears as if their bargaining processes are informed by sectional interest rather than by the greater, and more sustainable, economic good. The same could of course be said for unity within the ranks of business itself.

An unfortunate reality in societies as polarised as ours, is that topics of meaningful conversation are not conveyed directly between the appropriate people, but are instead 'mediated' almost exclusively by the media. We don't seem to debate these issues enough around tables in towns and cities across the country, which makes it more critical for this sector to execute its mandate inclusively and with a heightened emphasis on quality as well as with sensitivity towards the kind of society in which we live.

It should, finally, also be incumbent upon civil society to ask itself whether its organisations are doing enough to create platforms where non-threatening conversations can take place that ultimately promote shared understanding and inclusive outcomes. This sector is known for its emphasis on deliberation, yet more attention ought to be paid to the way in which we deliberate as opposed to the number of hours spent doing so.

However, a growing realisation of the unsustainability of the status quo is taking root across the abovementioned sectors. Increasingly, people seem to realise that, besides the genuine historical grounds, there are also pragmatic considerations that could threaten our prospects for a common future if not addressed with more urgency. As this article argues, we need a new way of talking, or as some have referred to it, a new national dialogue. While the outcome to the Malema hate-speech debacle has been discouraging, it should also serve to rally all of us across the social spectrum to prevent its recurrence. We can ill-afford not to. 

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A version of this article first appeared on www.sabc.co.za.*

An ongoing search for Kenya's

The adoption of the Rome Statute and the advent of the International Criminal Court (ICC) have significantly influenced democratic transitions and the rule of law in a number of African countries, but the intervention in Kenya is only one tool for achieving long-term change, writes ALLAN NGARI.

Kenya's fate as a country struggling with transition was sealed when violence erupted following the publication of the results of highly contested presidential elections at the end of 2007. Almost four years later, in September 2011, the ICC Pre-Trial Chamber II began hearings to confirm charges in two significant cases involving six Kenyans suspected of bearing the greatest responsibility for the December 2007 to January 2008 post-election violence.

These hearings began after the ICC Appeals Chamber conclusively decided in late August that the two cases before the court were admissible. The ICC rejected submissions by the government of Kenya expressing its ability and willingness to handle the post-election violence prosecutions on its own. It is expected that the Pre-Trial Chamber will deliver its ruling to confirm or deny the prosecutor's charges against the six suspects by the end of this year.

Critically, this decision will certainly shape the course of political manoeuvring in Kenya as preparations gear up for the next general election, expected to be held towards the end of 2012. Stern warnings have already been issued against incendiary statements, and particularly those that may heighten political tension and/or increase the possibility of a repeat of past violent conflict. The so-called 'Ocampo Six', named with reference to the ICC Chief Prosecutor, include deputy prime minister, finance minister and possible presidential candidate Uhuru Kenyatta, as well as other senior public servants and influential political leaders.

However, the tone of the 2012 polls will also be inescapably set by deeply rooted political and historic forces, with influence far beyond that of the ICC's intervention.

Parallel to the gaining momentum of the ICC process, Kenya's political elite and their followers have been cruising towards the national election. The work of the Court, in fact, appears to have had only a limited impact on the fluid mindset of the political class. Similar to other pre-election periods in the country, shifts in affiliations and formations of new political alliances for preferential presidential candidates remain a constant feature.

The truth beneath the surface in this seemingly peaceful East African country is that elections have always been a show of Kenya's limited success in dealing with its lurking demons of ethno-political intolerance. In 48 years of independence, state patronage in dispensing the country's bounty has always been circumscribed along ethno-political lines. With each regime change has come an inevitable vilification of the preceding government as having been incapable of confronting the nation's challenges and of realising the proverbial golden pot at the end of the rainbow. Numerous ethnic communities are disenfranchised through these processes, evoking uneasy analogies to the plight of the majority of black South Africans under apartheid. And though Kenya's ethnic divisions are less blatantly segregating than the policies of apartheid, corruption, the embezzlement of state resources and irregular land allocation based on political favours remain rife, and these have far-reaching effects on ordinary citizens.

As long as significant divides persist along ethnic lines, prospects of future electoral violence remain a real possibility. In this respect, little has changed since the ICC's intervention. Prosecutorial zealots have argued in response that the Court should not be seen as a panacea for Kenya's problems. The arm of the law can only go so far in bringing about profound social change; rather, it has been used with more success to address impunity gaps, for example.

However, both domestic and international law have also arguably lagged behind some of the most pressing challenges of the times. The Rome Statute of the ICC, adopted in 1998, is the first international treaty to codify the crime of apartheid – 'committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime' (Article 7.1[h]) – as a crime against humanity. This is laudable, but South African apartheid is now a monster of the past, slain by universal suffrage in 1994 well

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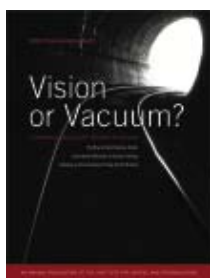
before the adoption of the Rome Statute. Although the effects of apartheid policies are felt to this day, these effects are not criminalised and neither is there the capacity or the political goodwill to conceive of such a criminalisation. These lingering effects of oppressive regimes and armed conflict often eat into whatever is left of the remaining societal fabric.

It does appear that the tone and intensity of political verbiage around ethnicity in Kenya has changed since the commencement of the ICC interventions. There have been significant steps towards promoting national reconciliation and social cohesion through national institutions such as the National Cohesion and Integration Commission among others. Tribal politics seems to be getting less coverage. The current cases before the ICC have also ensured that the issue of inter-ethnic differences remains a prominent issue in public discourse in a manner that cultural practices traditionally have not allowed. In many ethnic communities in Kenya, it is culturally unacceptable to confront wrong-doing, particularly when the offender is in a position of authority. This practice has, in some places, prevented open confrontation and critique of the underlying causes behind the electoral clashes of 2007.

What now needs to happen, beyond the current cases before the ICC and indeed the Court's remit altogether, is substantive work to build lasting social cohesion across Kenya's ethnic groupings. This will be essential for sustainable peace in the country. This cohesion must go beyond mere tolerance and co-existence, and should not rely on coercion to enforce cordial relations where deep-rooted resentment remains. Rather, these negative sentiments among ethnic groups must be challenged and resolved in order to build a cohesive nation, within a context of celebrating the good practices of cultural diversity.

Kenya is not alone in this challenge of social cohesion, which can also be found in other nations in transition on the continent. Perhaps as a continent, through the offices of inter-governmental agencies such as the African Union and civil society organisations, and even through communities and individual efforts, we should identify these challenges as universal but focus on localised and locally owned solutions. Failure to do so will compromise our efforts towards justice and reconciliation across Africa. 

Allan Ngari is project officer in the Justice and Reconciliation in Africa programme at the IJR.



TRANSFORMATION AUDIT, 2010

The IJR's annual Transformation Audit tracks matters of social justice in the South African economy. Titled *Vision or Vacuum?*, this edited volume focuses on the quality of economic and political governance in South Africa and how they impact on the achievement of shared prosperity for all South Africans. While presenting diverse views from some of the

country's leading researchers and economic analysts, the publication highlights the need for coherent and competent governance. In the process of recovering from the impact of the recent global recession, and in the light of continued global volatility, it is important for government to be pragmatic and to provide stability by doing the basic things right.



SA RECONCILIATION BAROMETER, 2010

Since 2003, the IJR's Political Analysis programme has conducted the South African Reconciliation Barometer survey: an annual national public opinion poll that measures citizen attitudes towards reconciliation, transformation and national unity in post-apartheid South Africa. Change in these complex social

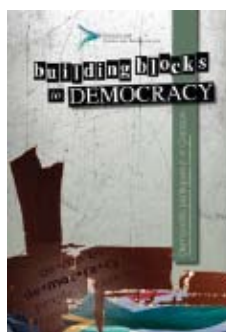
trends is measured through six key indicators: human security, political culture, cross-cutting political relations, race relations, historical confrontation and dialogue. As one of the few dedicated social surveys on reconciliation in Africa and worldwide, the Barometer has become an important resource for encouraging national debate, informing decision-makers, developing policy and provoking new analysis and theory on reconciliation in post-conflict societies.



AFRICAN IDENTITIES

The African Identities film project is a new initiative from the IJR, supported by the national department of arts and culture. The project consists of 17 short documentaries created by youth participants, which explore the question, 'who am I and what

makes me an African?' Initiated through a series of workshops on using the arts to bridge racial and cultural divides, the African Identities project brought together young voices from across South Africa, as well as Rwanda, Malawi, Cameroon, Nigeria, Namibia, the Democratic Republic of Congo (DRC) and Zimbabwe. Youth explored diverse perspectives on identity and belonging, nation-building, migration, and the building of inclusive societies.



DEMOCRATIC PARTICIPATION IN CRADOCK

This resource guide is the first in the new series, *Building Blocks for Democracy*. The resource guide for educators has been developed in partnership with the Eastern Cape Education Department, Cradock. It outlines the series of workshops held as part of his project which included the oral writing process, development of storyboards for short films, using the interview transcript,

and how oral histories could make a contribution to democratise the local archives. The guide traces in broad outline the origins of democracy in the world and explores in greater detail the contributions made by locals in the attainment of democracy in South Africa. Project participants were drawn from local high schools and community members. Learners documented the contributions made by lesser known participants, in the struggle for democracy, by conducting oral history interviews and producing short visual representations of their findings.

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CONTRIBUTE TO THE RECONCILIATION BAROMETER NEWSLETTER

Established authors interested in contributing to forthcoming editions of the *SA Reconciliation Barometer* newsletter should contact Kate Lefko-Everett, editor, on (021) 763 7128 or kate@ijr.org.za.

For project updates, analysis and commentary, visit the SA Reconciliation Barometer blog at www.reconciliationbarometer.org

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