

Joint Strategies to Challenge and Overcome Inequality in South Africa

**How we can use the Constitution more
effectively**

Mark Heywood, Executive Director, SECTION27
heywood@section27.org.za

Labour/Civil Society Conference, 28 October 2010

In his OR Tambo Memorial lecture ANC SG, Gwede Mantashe, recently said that the ANC needed to 'engage with its angry allies in the trade union movement' ...

The importance of being angry

- + "When it shall be said in any country in the world, 'my poor are happy, neither ignorance nor distress is to be found among them; my jails are empty of prisoners, my streets of beggars; the aged are not in want; the taxes are not oppressive; the rational world is my friend, because I am the friend of its happiness'; when these things can be said, then may that country boast its constitution and its government." (Tom Paine, *Rights of Man, Part the Second*)

Inequality is known to all of us. So will not dwell on statistics. The issue is the unspoken and unacknowledged human toll.

Indices of Injustice

- + **South Africa's per capita GNI (PPP\$11,710 per annum) means that it one of the 50 wealthiest nations and among the 35 largest economies in the world**
- + Yet:
- + Experienced a decline in its HDI, ranking 125th of 175 countries in 2008, down from 93rd in 1992
- + Life expectancies at birth are among the 30 worst in the world
- + 2005: national prevalence of stunting, underweight, and wasting is 18%, 9.3% and 4.5% respectively
- + South Africa is among 10 of 68 countries that have made least progress towards the attainment of MDG Four (reduce child mortality)
- + Maternal Mortality Rate (MMR) increased from 80.7/100,000 live births in 1997 to 165.5/100,000 in 2003
- + The Gini coefficient rose from 0.66 in 1993 to 0.68 in 2000 and to 0.70 in 2008, with the Gini coefficient for the African population rising most sharply
- + The income of the wealthiest group is 88 times greater than that of the poorest decile

+ *Questions are:*

+ *Why has inequality deepened in a democratic South Africa?*

+ *What can be done about it?*

Economic policy

- + COSATU proposal on growth path will be discussed in commissions. However:
 - + Effect of GEAR been to downscale public employment, in the hope that it will lead to private employment
 - + Massive under-resourcing of public services
 - + Jobless growth that has
 - + Deepened inequality
 - + Done nothing to alleviate poverty
 - + Necessitated greater and greater expansion of social assistance

- + There are alternative economic models –
- + SA could have grown the economy by creating employment thereby growing the purchasing power of its people:
 - + Arguable that a pro poor pro economic development policy is required by the Constitution ... 'progressive realisation'
 - + And supported by AU and UN Declarations, which SA has endorsed, on the Right to Development

But .. can't all be blamed on capitalism or economic policy:

+ Three issues:

1. Civil society not united to challenge the 'inequality path'
2. SA civil society has not sustained its campaigns on the necessity of following pro poor measures
3. Not done enough to tackle some of the major preventable causes of inequality

1. Challenging the 'inequality path' : What are we fighting for?

- + Purpose of conference not to discuss political theory, but political context to deepening inequality is important:
 - + Collapse of planned economies in late 1980s
 - + Massive expansion and integration of the global capitalist market – making 'nationalisation' as conceived in the C19th highly unlikely
 - + Success of capitalism as a market (?), cause of innovation and consolidation of its support amongst millions of people (including the poor) in China, India etc
 - + But failure as a system to create jobs, environmental security, disease eradication, etc
- + Question is what type of economic system are we fighting for? Is 'socialism' feasible?
 - + Can't risk getting lost in old doggerel and dogmas
 - + Can we control markets?
 - + How to campaign for real improvements in people's lives now

2. Sustaining campaigns

- + Ending the 'Grand old duke of York syndrome' (march them up to the top of the hill and march them down again)
 - + What happened after Poverty Hearings?
 - + What happened to campaigns on high food prices?

3. Preventable poverty and inequality

- + Effect of HIV/AIDS on poverty and inequality;
 - + Over 2.5 million deaths in ten years
 - + Over 1 million orphans
- + Wastage as a result of corruption, cronyism and the arms deal:
 - + See DA Wasteful Expenditure Monitor R1,187bn ;
 - + See Gauteng & E Cape Health department audits
 - + Billions of Rands unaccounted for

Ensuring resources for rights

- + SA is a developing country with absolute resource constraints,
- + but not completely resource-poor. See budget 2010/2011 –
 - + Consolidated revenue R658bn
 - + Consolidated budget R907bn
 - + Budget deficit 7,3%
- + Billions wasted that could be redirected

WHAT IS TO BE DONE?

What is to be done?

- + Consistent and continual mobilisation around key social issues. Set objectives – at this conference ?? - and use all legal means at our disposal until we achieve them:
 - + Effective advocacy and research
 - + Education and leadership development
 - + Social mobilisation & protest
 - + Using the courts and other constitutional bodies
- + Mobilising people to be aware of their rights, become active citizens

USE THE CONSTITUTION!

- + Courts have always been part of our armoury, including under much more difficult circumstances. Use them now!
- + Constitution the highest law:
 - + “the state must respect, protect, promote and fulfil the rights in the Bill of Rights.”
 - + “The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.”
- + We can challenge ANY policy or law that runs contrary to it
 - + The example of TAC – 1.2 million people on treatment, through building alliances, community monitoring, use of law

How?

- + Constitution as a tool in struggles for local democracy
 - + S 152
- + Constitution as a tool in fighting corruption
 - + S 195

Look at: S 152. Objects of local government

- + The objects of local government are -
 - + **to provide democratic and accountable government for local communities;**
 - + **to ensure the provision of services to communities in a sustainable manner;**
 - + **to promote social and economic development;**
 - + to promote a safe and healthy environment; and
 - + to encourage the involvement of communities and community organisations in the matters of local government.
- + A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

- + **153. Developmental duties of municipalities**
- + **A municipality must -**
 - + **structure and manage its administration, and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and**
 - + participate in national and provincial development programmes.

Look at: S 195. Basic values and principles governing public administration

- + Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:
 - + A high standard of professional ethics must be promoted and maintained.
 - + Efficient, economic and effective use of resources must be promoted.
 - + **Public administration must be development-oriented.**
 - + **Services must be provided impartially, fairly, equitably and without bias.**
 - + **People's needs must be responded to, and the public must be encouraged to participate in policy-making.**
 - + **Public administration must be accountable.**
 - + **Transparency must be fostered by providing the public with timely, accessible and accurate information.**
 - + Good human-resource management and career-development practices, to maximise human potential, must be cultivated.
 - + Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.
- + The above principles apply to -
 - + administration in every sphere of government;
 - + organs of state; and
 - + public enterprises.
- + National legislation must ensure the promotion of the values and principles listed in subsection (1).

ISSUES FOR JOINT STRATEGIES

1. The right of access to health care services
2. The right to basic education
3. The Right to Economic Development

The Right of Access to Health Care Services

- + Joint position on NHI
- + Integration of Community Health Workers into permanent health workforce
- + Call for a market enquiry into the conduct of the private health sector

Health not just a manifestation of inequality, but a cause of inequality

- + Ill health impedes opportunity and development:
 - + “Prolonged or chronic illness was a major risk to vulnerable people’s livelihoods due to income losses and direct illness cost burdens. Illness had caused or threatened impoverishment in 21 out of 30 households selected to include at least one member with a long-term condition. Households’ success in drawing on the three strands of social protection affected their capacity to cope with illness and whether households managed to sustain their livelihoods, struggled or declined. Processes of impoverishment were triggered unless a vulnerable family could access cash transfers and social network support to assist with access to free health care services and food security.” (Jane Goudge et al, *Journal of International Development* J. Int. Dev. 21, 231–251 (2009)).

The Right to Basic Education

- + Campaign for implementation of minimum standards
 - + No more Mud Schools
 - + Support the OR Tambo schools litigation
- + The right to school libraries??
 - + DBE, Action Plan 2014 – all schools have libraries by 2030! (do we accept waiting for another 20 years?)

Facts about the 'Mud Schools' case

- + Six schools in OR Tambo District, E Cape:

- + Nomandla Senior Primary School
- + Tembeni Senior Primary School
- + Madwaleni Senior Primary School
- + Sidanda Senior Primary School
- + Nkonkoni Senior Primary School
- + Maphindela Senior Primary School
- + Sompa Senior Primary School

- + Challenging lack of infrastructure, desks and water

- + Calling for plan and its implementation

- + Claiming violation of right to basic education

- + When the school at Nomandla blew down in a storm in June 2009 a request for emergency assistance resulted in the ff reply: " the provincial office has no funds available at this stage to entertain your request. The request will be revisited in future once funds improve/become available together with all other cases on the needs register." Parents had to contribute 60% of costs to building new class rooms.

- + **Hundreds more schools like this ■**

The Right to Development

- + Not in SA Constitution but take more advantage of:
 - + UN Declaration on the Right to Development
 - + African Charter on Human and people's Rights
- + Strengthen People's Budget Coalition
- + Promote & Engage Parliamentary Budget Office
 - + See Money Matters Amendment Act

UNGA Declaration on the Right to Development (1986 41/128)

+ Article 1:

- + The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development.

+ Article 2.3:

- + States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals...

+ Article 3:

- + States have the primary responsibility for the creation of national and international conditions favourable to the realisation of the right to development.

African Charter on Human and People's Rights

- + Article 1:
 - + Member states ... Shall recognise the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them.”
- + Article 15:
 - + Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.
- + Article 22:
 - + All people's shall have the right to their economic, social and cultural development with due regard to their freedom and identity...
 - + States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Way Forward

- + Create capacity in civil society
- + Encourage new young leadership and help arm with ideas and strategies
- + Define agenda and way of working
- + Understand role of civil society in government of country
 - + Can't 'trust' political parties, including the ANC

And in conclusion back to Tom Paine

- + “If, ... to lessen the oppression of taxes – to propose plans for the education of helpless infancy, and the comfortable support of the aged and distressed – to endeavour to conciliate nations to each other – to extirpate the horrid practice of war – to promote universal peace, civilisation and commerce – and to break the chains of political superstition, and raise degraded man to his proper rank – if these things be libellous, let me live the life of a libeller, and let the name LIBELLER be engraved on my tomb.”

