

## Open Society Dynamics At Work

“Open society, open economy, sound money (i.e. low inflation)”.

This has been my touchstone over the years in evaluating SA’s progress towards a successful transition. It has also been the basis of my response when people claim that SA must necessarily follow the road of Zimbabwe. Zim was never an open society, certainly did not have an open economy and on inflation, well ... !!

June brought a remarkable display of open society dynamics at work in SA.

### Some critical U-turns

First there was the Bill on the Protection of Public Information where the ANC made a major shift, announcing on 24 June that it would take on board many of the criticisms voiced by civil society groups, opposition parties and the media over the last year or so. The critics are not 100% satisfied, but their positive reactions indicate that huge progress has been made.

Secondly, there was the announcement that the four labour bills would be referred to a drafting team consisting of business, labour and unions for re-consideration. (Still remember labour broking and the employment equity fracas in respect of Coloured and Indians that led to the spat between Trevor Manuel and Jimmy Manyi?!)

Thirdly, although not new, the Minister of Health reaffirmed government policy to introduce the NHI (National Health Insurance) over a 14-year period, starting with an upgrade of rural health care services (to be followed by “a sister at every school” to administer basic health care to children). This is more an upgrade of public health than a classic NHI system. It comes in the wake of previous shifts on this issue: originally the private medical sector was to be banned entirely, now the minister is pursuing public-private-partnerships; originally the system would be funded from income tax only, now income, payrolls and VAT are considered as possible sources of funding.

*The golden thread running through these U-turns is common sense and rationality trumping initial rhetoric and ambition.*

### Courts at work

It is clear that the threat of having the Protection of Information Bill declared unconstitutional also played a role in the U-turn on it. The Constitution and Constitutional Court are critical elements of South Africa’s open society.

The Cape High Court ruled that the 1316 “open toilets” at Makhaza on the Cape Flats are a violation of the residents’ rights, that the agreement between the previous major and the residents to have such open toilets was unreasonable and unlawful and that the toilets should be enclosed. Cape Town mayor Patricia de Lille announced that workers have moved onto site to construct the enclosures.

In Gauteng the High Court ruled that potholes in the Delmas district should be fixed. The potholes were fixed within days of the ruling.

Govt also reversed the basis of its re-appointment of Chief Justice Sandile Ncobe after being challenged with Court proceedings by civil society groups, not on the substantive merits, but on procedural grounds. The judge's re-appointment will now be done by way of a special Act of Parliament as provided for in the Constitution.

All these cases raise the question why it should be necessary for citizens to have to go to court (or threaten to do so). But they also illustrate that citizens are not helpless and that the Courts are bringing relief to the poor and marginalised and those who have cars and are harassed by potholes alike.

### **Business finding its voice**

During June we also saw a change in the wind in the way business engages with public issues. Several business leaders have come out against the Information Bill. Some have also started to respond to the nationalisation debate.

During the 1980s business was much more outspoken and involved in public policy issues than today. I support a return to that era. Business is a critical part of civil society and its voice should be heard.

### **Official criticism**

June also saw the release of the National Planning Commission's hard-hitting diagnostic report on what is wrong in SA. The 6 chapters covering 187 pages list nine problem areas, from education and health to corruption and weak public institutions.

The NPC's next step is to compile a plan to address these and create a different future. A draft will be compiled by September/October and in November it will go to Cabinet for approval.

Only in an open society can such a report be published and become the official benchmark for future planning.

### **Nationalisation**

The one remaining issue that got media traction in June is the nationalisation debate. Remarks by the outgoing DG of Minerals indicate a behind-the-scenes initiative to deal with this debate. That is good and well, but a robust public engagement on the issue is also important. Politics is about shaping ideas, and that cannot happen with only behind-the-scenes activities.

Many people (especially fund managers!) find a robust debate unnerving as it undermines confidence and stability. That is true, but in a democracy robust debate is needed, even if it unnerves people in the short term. Naturally the issue should be brought to finality and certainty and stability restored.

### **Creating space by default**

As always in politics and policy, the law of unintended consequences operates relentlessly. The disintegration of discipline and cohesion in the ANC is having the unintended consequence of galvanising

others into action – civil society, business, media, unions.... It leads to a cacophony of noise and may look disorderly and chaotic (the Chinese and the Russians probably look at this and scratch their heads!) but it is indicative of a healthy open society at work, struggling to find solutions to difficult problems.

### So What?

- Any of these news developments on their own would not look like much. Merely another passing news item amidst the cacophony of Julius Malema, the BMF, Cosatu et al. Add them together, however, and they form a fairly consistent pattern of a move towards rational outcomes to thorny issues.
- SA's democracy is still young and maturing. The way civil society responded to the Information Bill and citizens responded to their rights being infringed suggests citizens are not taking it lying down.
- This list, from one month of news only, also illustrates that SA is not a one-way street. There are forces and counterforces, checks and balances that mediate and balance the myriad agendas and interests in this society, mostly successfully. It may be premature to talk up the prospect of Mugabe-types taking over or revolutions taking place.