

DEMOCRACY FLOATS IN A SEA OF ETHICS

1 Introduction

Earl Warren Chief Justice of the United States in the 1950s once remarked that “In civilised life law floats in a sea of ethics” It was Earl Warren who ruled that segregation in public schools was unconstitutional thus legally bringing racially-separated schooling in the United States to an end. The remark by Chief Justice Warren could not have been more apt than is in the case of democracy, especially our nascent democracy built on the ashes of colonialism and apartheid where ethics was compromised by ideology and the power relations operating at the time. We are gathered here today at the invitation of the Moral regeneration Movement to present the Charter of Election Ethics to the political parties contesting the opportunity to govern our municipalities. It was former president Nelson Mandela who, in 1998 on recognising that our nascent democracy was showing signs of moral decay suggested that the country was in need of a reconstruction and development (RDP) of the soul, and invited religious leaders and together they proposed the formation of the Moral Regeneration Movement. It is in response to that call that the MRM has led in the formulation of this Charter for Election Ethics.

2 The Context

Elections form a key component in the functioning of a representative democracy. Unarguably, representative democracy carries with it heavy moral responsibilities because public representatives are entrusted with the allocation and distribution of public resources. This is a delegated responsibility. Public representatives and by extension government exercises delegated power and sovereignty resides in the *demos, the people* that delegated it, hence the Latin phrase: *delegata potestas non potest delegari* i.e. delegates can-not hold more powers than those that delegated them. However, because the very authority upon which sovereignty is located derives from the operational norms and values, sovereignty is relative and contextual to the normative moral order. The power of institutions is therefore both relative to and derivative from the normative moral order. However, it has become common cause that our politics is going through serious tensions between competing conceptions of democracy and by implication governance in the politics of transformation in South Africa.

Indeed, it is these contending conceptions of democracy that have resulted in the problems confronting our state in the first two decades of our democracy.

2.1 Gross inequalities- the Democratic Deficit

Political systems have collapsed through revolutions more from structured inequalities than from poverty per se. I was once part of a serious meeting between Peter Berger, the esteemed sociologist from Boston University and Fatima Meer, a political activist and an incisive sociologist in her own right. Berger posited poverty as a cause for popular disaffection and probably rebellion. I it is not poverty per se” retorted Meer”. “When everyone is poor, people live peacefully side by side. It is when poverty is juxtaposed to wealth that the people riot.” South Africa may be approaching the threshold. Statistics South Africa reports that 10, 2 million people live below the breadline of R321 per month, but the richest 20 percent consume over 61 percent of the goods and services available in the country. This demonstrates that the problem is not simply poverty, but that it is exacerbated by structural inequalities making South African society the most unequal in the world with a Gini coefficient {a measure of the gap between the rich and poor} of 0,69. The closer to 1 the figure is the more unequal the society. This represents a democratic deficit. Admittedly South Africa has historically been a country of mansions and shacks. However the persistence of the same gross inequalities in a post- apartheid dispensation calls for deep introspection.

2.2 Performance in Government – the Human Rights Deficit

South Africa has earned herself the title of protest capital of the world with protests which generally turn violent originating from two sources: dissatisfaction with the pace of delivery of basic services such as housing, water and sanitation and directed mainly at local government; and wage and salary strikes directed mainly at employers including government as probably the largest employer. On one side such endemic and violent protests illustrate the paradox in South Africa’s responsiveness to the concerns of her citizens. For instance since democracy South Africa has performed exceptionally well in the provision of houses and in the reticulation of electricity, water and sanitation. Simultaneously, the growing gap between rich and poor exacerbated by the corruption of the political and bureaucratic elite openly demonstrated in conspicuous consumption, has fuelled perceptions of a wealthy state unwilling to share the vast resources with her citizens. Secondly, there are huge discrepancies in the quality of services. There are several instances where state provided housing is of poor workmanship such that some of the buildings collapse and have to be reconstructed or need

major repairs to leaking water pipes. There are cases of water pipe leaks resulting in intermittent supply, faulty electrical connections and in some areas residents who applied for housing have been in the queue for far too long. Affected and dissatisfied citizens blame this state of affairs on nepotism and political favouritism in the awarding of tenders to service providers together with the corruption of political and bureaucratic officials. There are instances where, despite shoddy workmanship, the same contractors are awarded tenders for new work. Therefore, while the state can claim a good record in terms of the housing units constructed and the electricity and water connections made, the service is erratic, inconsistent and bureaucratic thus causing alienation between government and citizens.

On the side of human rights, reported cases of rape in South Africa indicate 171 cases each day or approximately 500,000 cases per annum, making South Africa the number one rape culprit in the world. Approximately 49 persons are murdered each day according to the police crime reports in September 2015. A third {33%} of the youth aged between 15 and 24 years are neither at school nor in employment. These are just a few selected statistics on the human rights deficit.

Franz Fanon in his book: “Les Damnés de la Terre: mistranslated to “The Wretched of the Earth” instead of “The Damned of the Earth” expresses the deep plight of citizens in post liberation states. “The peasant who goes on scratching out a living from the soil, and the unemployed man who never finds employment, do not manage, in spite of public holidays and flags, new and brightly coloured though they may be, to convince themselves that anything has really changed in their lives” {Quoted in Ben Turok: 2011: 93}. The wretched of the earth might be there out of destiny or misfortune, the damned are there because human agency put them in that position, and this is what Franz Fanon meant in his famous works.

2.3 A Political Culture of Ungovernability

Poor delivery of services, gross economic inequalities and political disaffection has found expression in violent protests which, in turn, have trampled the very democracy we believe we are promoting. This could not be demonstrated better than in protesting mobs demonstrating their disenchantment with the political system blocking the highways and inconveniencing the public that has nothing whatsoever with the source of the crowds’ suffering. It is as if because we suffer, the whole world should suffer with us. The idea is not only ethically indefensible but also demonstrates an inability to differentiate between adversaries and allies, a situation that questions the existence of an intellectual capacity to

solve problems. Solving problems through intimidation and blackmail does not yield sustainable outcomes as no sooner does the adversary recover from the shock than he reverts to the original position. In the process and the interim the aggrieved victims alienate sympathy further distancing their cause from the general will. Worse still, such actions build a momentum of their own which culminates in a culture of impunity and lawlessness. Ungovernability is never a solution to a problem. At its worst it is cutting ones nose permanently to spite ones face. We seem not to have learned our lessons from the 1980s to the early 1990s when making the country ungovernable in order to remove apartheid yielded a residual which democracy can-not get rid of. An ungovernable society as what we witness in service delivery and other political protests, in students' protests against fees a number of other political hot spots is worse than a poorly or badly governed one as ungovernability respects no boundaries. In South Africa the democratic deficit translates into a social laissez faire where everybody in the name of freedom wishes to do as they please or where a majority believes that because of its numbers it can bulldoze everyone into compliance.

2.4 Political Violence, Intimidation, Murder and other forms of Criminal Behaviour

Over the past few years, and regrettably the practice seems to be intensifying, we have witnessed violent disruptions of voter registration, inter and intra- party violence in the lead to elections especially local government elections. Coupled with assassinations this negates the very ethos upon which democracy operates. Further, parliamentary sessions starting from the national to local parliaments have ceased to be consensus building deliberations and have become theatres for the demonstration of majoritarianism. This not only represents the tensions between competing conceptions of democracy but is also symptomatic of the fierce rivalries fuelled by the conceptions of political office as the source for power and opportunity to plunder public resources.

3 An Ethical Leadership

We are gathered here to present the Charter of Election Ethics. The Charter carries messages to all role players in the elections and calls for integrity, objectivity, honesty, transparency and service to society. There could not be a clearer call for an ethically responsible operation. The call goes beyond elections and is a reminder to those who lead that political office is a call to duty and not an opportunity for personal arrondissement. This takes us to the issue of leadership in any political dispensation. The philosopher Sandel refers to " a leadership with an animating vision of a good society and the shared values of citizenship." At this moment

in time South Africa is in dire need of such leadership and the MRM hopes that through these consultative processes with our political parties we have started dialogues which will culminate in the realisation of this dream.