



INCLUSIVE SOCIETY INSTITUTE

Op-ed

Rise civil society: A new year's resolution ***by Dr Klaus Kotzé***

In recent years, the people of South Africa (and the world) have ushered in each new year with the desire that it will be better than the preceding one. As with any resolution, it is not desire but action that counts.

Our extensive national failings demand significant intervention to help restore the democratic edifice. It is not sufficient to isolate and prosecute suspected parties. Our crises cannot be resolved by negative action. Instead of another state-led commission, the citizenry must be central in rethinking and then co-creating a new socio-political order that places positive, transformative action first. Renewal is not the task of one political party. Everybody with an interest in the nation must contribute to its substantial renewal. In so doing, the citizens will be discharging their Constitutional duty and contribute to the fulfilment of a transformed and people-driven state.

The Constitution, the foundational text and loadstar of the nation, accords the form and intelligence of the state. Following the South African people's long struggle against authoritative and repressive state power, it is the Constitution that establishes peoples' power. It gives expression to the aim: *the people shall govern*. In abolishing the former system of Parliamentary supremacy (rule by law), the enactment of Constitutional supremacy (rule of law) has effectively dislodged power from the hands and whims of a ruling party. The Constitution directs all subjects of the state to be guided by the expression of its principles and values.

It follows that for any political action to be legitimate, it must accord to the Constitution's aspirational and transformative goals. It is too often neglected that it is not only government that must pursue the Constitution's aspirational ends. The citizenry too is charged, in the spirit and deed of republicanism (South Africa is a republic after all) to participate in democratic action. While much is (rightly) made of the government's failures, the republic is doomed when the citizenry remains mere rights seekers.

Voting is the fundamental popular action that conveys representative legitimacy. It is a pillar upon which the national order rests. If a majority confers legitimacy, then the 54.13 % of the electorate which refrained from voting in the 2021 municipal elections effectively invalidated the South African political order. This decided political expression (seemingly unbelievable given the long-pursued quest for political participation) symbolises a crisis in our political system. If this is not urgently addressed, the South African project risks unravelling. Not only does this failure suggest that the ruling party is no longer the popular force it once was. But, if power is not claimed through 'the will of the people', then it will be challenged through alternative, destructive ways. Such a challenge will fundamentally

change the basis and thus the entire scope of the national political order. A fatal strike to the heart of South Africa as we know it.

We are already seeing that inordinate centralisation led to the exploitation of state resources by connected individuals. The role of politicians and political influencers has become a feature of and a threat to South African democracy. The government's statist approach has built a dependency on an overburdened state.

Power is never given; it is always claimed. Herein lies the vital task for the nation. It is of cardinal importance that the citizenry debates and resolves the question of national process and structure. The debate on state practice, the role of government and the role of the citizenry. For the South African state to be legitimate, the citizenry and government must co-operate in its execution. Unlike under apartheid, where civil society existed in opposition to the state, today this relationship cannot be purely antagonistic. Civil society must collaborate with the government. It must do so constructively and independently.

The role of the citizenry cannot be exaggerated. The Greek root origin for the word city (the state in today's political terms) and citizen is the same. Citizenship, therefore, means that one belongs to that geographically inscribed political community. As the city belongs to the citizen, the citizen belongs to the city. Both have the duty to serve the other. Accordingly, statism must be transformed into citizen-led democracy. Instead of simply opposing the government, the citizenry must supplement the government's actions.

South Africans have an advantage. We have a deliberative recent history and a Constitution that mandates the government to work closely with the people. This is the principle of subsidiarity, interpreted from section 156(4) of the Constitution. The principle requires maximum efficiency in the application of government. Subsidiarity is about making efficiency the norm. The government is constitutionally mandated to devolve power (decentralise) when there is a demand from the people and when such devolution affords efficiency. This is an important distinction to make. There must be an active demand, whereby the people take up their civic responsibility as co-creators of the state.

While civil society has become less influential in the past three decades, the COVID-19 pandemic has lifted the veil of poverty and unemployment. Both the recognition of and involvement with civil organisations has hugely increased during the pandemic. Considering the Constitutional principle of efficiency and subsidiarity, civic involvement carries the significant potential to catalyse the structure of the state.

The citizenry must seize the national moment to deliberate and engage in the processes needed to resolve the crises. The form and conduct of the process is important. It must be open, inclusive and robust.

For co-operative democracy to embody transformative constitutionalism, we need to do what South Africans cohered to do in the early 1990s. We need to establish a new national chorus. While civil organisations have different approaches to their interests, they need to agree on and then sing from the same proverbial hymn sheet. South Africans need to come together to agree upon the details of

this score. In the early 1990s disparate groups, intending to end Apartheid and craft a better society, came together in different formats. While we can take inspiration from the Convention for a Democratic South Africa, civil organisations should look to unite. To again form a patriotic front.

At a conference in October 1991, a broad array of organisations signed the Patriotic Front Declaration. Setting out a consolidated comprehension of the country at the time, the Declaration articulated and then dedicated the signatories to a course of action and envisaged outcomes. While the substance of the new declaration will be different, much in the manner of process, structure and organisation can be drawn from the Patriotic Front Declaration. Neither the potential value of such a process, nor its mobilising force should be underestimated. Today there exists a national yearning for a new patriotic front. The concluding paragraph of the erstwhile Declaration serves as a fitting starting point. It calls “upon our people wherever they are to join and engage in this process emanating from our Conference to create a nation that will be at peace with itself”.

To realise the transformative goals of the Constitution and to give effect to a people-driven state, civil organisations must come together. To undertake a thorough and democratic process. To give direction to a new national declaration, and then to speak with one voice.

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