

# SA Reconciliation Barometer

Tracking socio-political trends  
VOLUME 9 • ISSUE 2 • JULY 2011

## Improving the lives of undocumented migrants

Employment equity:  
Ticking boxes?







## CONTENTS

4 Stories of the Solms-Delta farm workers

6 Struggle songs, heritage and reconciliation

12 Are we democratic citizens?

8 Employment equity

14 SA documents the undocumented

## editorial

When I first sat down to write this editorial, I thought my focus would be on the importance of commemorating World Refugee Day, particularly amid reports of fresh outbursts of xenophobic violence in South Africa, and as government works to regularise the status of Zimbabwean migrants in the country.

However, the whole nation gave pause at the news of the passing of Professor Kader Asmal, anti-apartheid struggle stalwart, one of the drafters of democratic South Africa's Constitution, and former minister of education and water affairs – to name but a few of his significant roles in a lifetime of dedicated service. We will not quickly forget Asmal's exceptional intellect, enormous appetite for debate, and at times, acerbic wit.

In these quiet moments, I looked back on a statement that Professor Asmal made at the first public dialogue I coordinated at the IJR in 2009, which focused on cultivating active citizenship and public participation at a time when public optimism and confidence in the institutions of South Africa's democracy were – according to the results of the SA Reconciliation Barometer survey – at an all-time low.

Asmal recalled his work at the helm of a parliamentary review commission evaluating the work of the independent 'Chapter 9' institutions, which include the Human Rights, Gender and Independent Electoral Commissions, among others. Referring to South Africa's 'democratic deficit', he ascribed to these institutions the role of 'ensuring that people don't consider themselves outsiders'. In this country's young democracy, he asked, how do we go about ensuring that every person is a subject and not an object, and that the individual is not an outsider, but rather 'finds his or her worth together with others'? South Africa, he was concerned, had 'lost the *élan*, the remarkable mood and the special perspective we had in 1994'.

Asmal's lifelong commitment to pursuing an inclusive and engaged society that values human rights is evident in his mark on South Africa's Constitution and Bill of Rights. Retired Constitutional Court judge and IJR Reconciliation Award recipient Albie Sachs has told how he and Asmal together first put pen to paper at a kitchen table in a drizzly Dublin suburb in 1987 to draft these world-renowned texts: 'We were aware at the time of the momentous nature of what we were doing.'

Yet how better to commemorate World Refugee Day 2011 than through Professor Asmal's vision for South Africa? In a speech on 20 June 2003, in his capacity as education minister, Asmal – speaking in part from his personal experience of exile – observed that while "'refugee" suggests protection, comfort and hospitality', the 'word "refugee" suggests loneliness, separation from loved ones, impermanence, and waiting'. He spoke about pride in being South African and African and in an 'inclusive form of patriotism', which was built on hospitality and good neighbourliness and 'does not mean I scoff at those who seek refuge in my country'. He implored South Africans to respect the values of the Constitution, reject racism and



xenophobia, and to 'embrace not only the letter of the law but more importantly its spirit'.

Tolerance and inclusivity are underlying themes that cut across this edition of the *SA Reconciliation Barometer* newsletter. Ayanda Nyoka of the IJR's Political Analysis programme explores the legacy of political violence in South Africa, and discusses both citizen responsibility for a participatory democracy, and the role of political parties and leadership.

Cecyl Esau, who leads the IJR's oral history project, considers whether or not historic struggle songs have a place in South Africa today, particularly when some find them offensive, or even unconstitutional.

Caroline Reutsch, a former IJR intern currently completing a Masters in post-war recovery studies at the University of York, reports on the results of qualitative evaluations of the Zimbabwe Dispensation Project (ZDP) from migrants, analysts and practitioners in Cape Town. The ZDP, she finds, has had the potential to bring about greater stability and security for Zimbabwean migrants in South Africa, though its impact remains yet to be seen.

With a focus on economic transformation, freelance journalist Crystal Orderson visits the Solms-Delta wine estate in Franshoek, and finds evidence of reconciliation in daily practice.

Finally, in this edition we bring you the inputs made from a fascinating group of panel speakers at a recent dialogue in Cape Town on 'Employment Equity: Ticking Boxes or True Transformation', co-hosted by the Reconciliation Barometer and the Rethinking 'Race' and Affirmative Action in the United States and South Africa projects.

As always, readers are encouraged to share comments and feedback on [www.sabarometerblog.wordpress.com](http://www.sabarometerblog.wordpress.com).

The IJR sends its deepest condolences to the Asmal family.

*Kate Lefko-Everett*

*Senior project leader: SA Reconciliation Barometer*

## AMNESTY, IMPUNITY AND REPARATIONS IN THE DRC

Within the DRC, support for the establishment of a Special Mixed Court to try perpetrators of international crimes is gradually growing. This approach would remove jurisdiction from the military courts, as is currently the case, and ensure broader compliance with international legal standards. The IJR and its partner organisation, the Congolese Coalition for Transitional Justice, hosted a recent workshop on the theme of 'Amnesty, Impunity and Reparations'. The event focused on victim rights in the DRC, the absence of a reparations policy, and the passing of three successive laws that confer a de facto blanket amnesty for war crimes and crimes against humanity: an untenable situation given the chronic human suffering that prevails in the DRC, reinforced by a sluggish justice apparatus. The IJR's Transitional Justice in Africa programme will also be editing a forthcoming book focused on the Great Lakes region, which is expected to be released in early 2012.



Above: Scenes from the 'Amnesty, Impunity and Reparations' conference

## IJR RECONCILIATION AWARD: 'THE POWER OF ONE'

The IJR is currently accepting nominations for the annual Reconciliation Award, from community-builders to culture-creators – people who are making a difference and contributing towards nation-building. This year's award will be granted to a young person (aged 16–25) who worked for reconciliation and to build a more inclusive society during 2010, through initiatives such as the arts, education, sports and work in communities. The closing date for nominations is 16 August 2011, and the award will be handed over in Cape Town in December. Full details and nomination forms are available at: [www.ijr.org.za](http://www.ijr.org.za).

## HOPE, PAIN AND PATIENCE: THE LIVES OF WOMEN IN SOUTH SUDAN

In August, the IJR will be launching a new book, titled *Hope, Pain and Patience: The Lives of Women in South Sudan*, edited by Friederike Bubenzer and Orly Stern and published by Jacana. The edited collection features fascinating insights into the role of South Sudanese women during and after their country's two civil wars. It includes the stories of married women and mothers, survivors of sexual violence, former combatants, women in the Diaspora and those working in politics, leadership and service delivery. UN Under-Secretary-General and Special Adviser to the Secretary-General on the Prevention of Genocide Francis M. Deng has described the book as a major contribution towards the development of a more comprehensive appreciation and understanding of the experiences of the South Sudanese, and the challenges they now face in building their future.



© Jenn Warren

---

# ‘This place restored my dignity’

## Stories of the Solms-Delta farm workers

After years of covering illegal farm evictions and the plight of workers, journalist CRYSTAL ORDERSON finds inspiration and happiness in a picturesque corner of the Franschhoek valley.

**T**he Solms-Delta wine estate employs close to one hundred workers. A trust established for farm workers and their families has earned the wine estate a reputation as a pioneer in the Western Cape and around the country. Yet the Solms-Delta vision and trust go far beyond shared land ownership: this act has given farm workers hope, and the beliefs that their future is bright and reconciliation is possible.

It is raining on the day I decide to visit Solms-Delta, and dark clouds hover in the sky. En route to Franschhoek, I notice several farm workers walking through the rain. None even attempts to hitchhike or get a lift from passing motorists.

The situation of farm workers in post-apartheid South Africa has not changed much. In fact, despite a plethora of new laws enacted to protect them, some might even argue that their circumstances have worsened.

I want to make sense of this, and look to Professor Pumla Gobodo-Madikizela of the University of Cape Town for possible answers. Her essay ‘Past Traumas are a Present Problem’ argues that ‘traumatised people learn to “cut off” such painful or stressful experiences’ by taking these out on others. This ‘acting out’ of trauma, the opposite of ‘working through it’, applies to both individuals and groups and perpetuates a cycle of violence.

The act, or inaction, of deciding to walk in the rain made me think of how apartheid shaped the lives and labour conditions of South African farm workers today. More importantly, how do farm workers themselves view their lives, 17 years after the country’s first democratic elections? How do they feel about reconciliation?

Though I will never be able to speak to the thousands of farm workers in the Western Cape, it is with these questions in mind that I head to Solms-Delta for more insight.

I am warmly welcomed by 42-year-old farm supervisor Johan O’Ryan. Dressed in a blue jacket and cap and addressing me in Afrikaans, O’Ryan tells me that he was born in Ceres and has

lived at Solms-Delta since the late 1980s. The first thing I notice is his happiness and excitement about the happenings on the farm, where he works to motivate staff, supervise wine tours and oversee aspects of the business.

‘I started to work on the farm when it was still owned by the Pickstone family and was assisting with the irrigation. In those days the government still sent inspectors to farms to see that the workers behaved themselves.’ When the farm was sold a few years later, O’Ryan was appointed as a security guard. ‘This is where I saw a totally different world, the world of apartheid and racism.’

However, O’Ryan also feels that ‘1994 brought hope for a better future’ in South Africa, and right here at Solms-Delta. He recounts, ‘as a child we were often referred to as “hotnots” and had to call the farmer “baas”. I always refused to do that and at times had to pay the price for my pride.’ Recalling these difficult reminders of the country’s dark past is not easy, but O’Ryan says that living at Solms-Delta has helped him to reconcile and gain confidence about the future.

Many years later, O’Ryan met his first employer in Ceres, and the farmer apologised for his behaviour. ‘That apology was heartfelt and I felt wonderful.’

Sarie Petersen has been a farm worker all of her life. She shows me her hands, hardened by the picking and cutting of grapes; these hands have worked the land. She remembers the harsh living and working conditions of the past. ‘If it rained we had to work until you were wet and your hands were aching ... We had no electricity and had an outside toilet and had

**Petersen says, ‘I forget how horrible the past was and how farmers used to treat us, now I am happy at work and feel respected as a human being.’**





one room that my two children shared with us.’ Petersen’s small family made do with wages of R72 and, she tells me, prayed for a good farmer to come along.

It seems that prayer has come true. Petersen says, ‘I forget how horrible the past was and how farmers used to treat us, now I am happy at work and feel respected as a human being.’

World-renowned neuroscientist Professor Mark Solms assumed partial ownership of the 320-year-old estate, determined to address social imbalances, and with a ‘vision that went much deeper than re-establishing its vineyards and cellars’. Solms also wanted to ‘do something about the legacy of his European forebears [who had settled in the Cape six generations before] and thereby address the pressing social and economic problems facing South Africa today’.

Under its current ownership, Solms-Delta has been described as ‘blazing the trail for new corridors of social and ethical reflection’.

Twenty-two-year-old veterinary graduate Coman Daniels was born on the farm, into a one-room house with a leaking roof. ‘We never had a proper house with lights or plugs,’ he recalls. ‘We suffered under apartheid and life was tough.’


Daniels explains that other farm workers are often surprised by the living conditions at Solms-Delta, and are surprised that employees are so happy. ‘People see us as the *brekgat* [boastful] farm.’ When I ask what makes him happy, he answers, ‘The

fact is that I have opportunities to study. I live in a comfortable house. I can be a person.’

Daniels speaks confidently about staying on the farm, in part due to the relationship between Solms and the workers. ‘Mark treats us like equals and respects our views,’ Daniels explains. ‘We enjoy working and are positive about our future.’

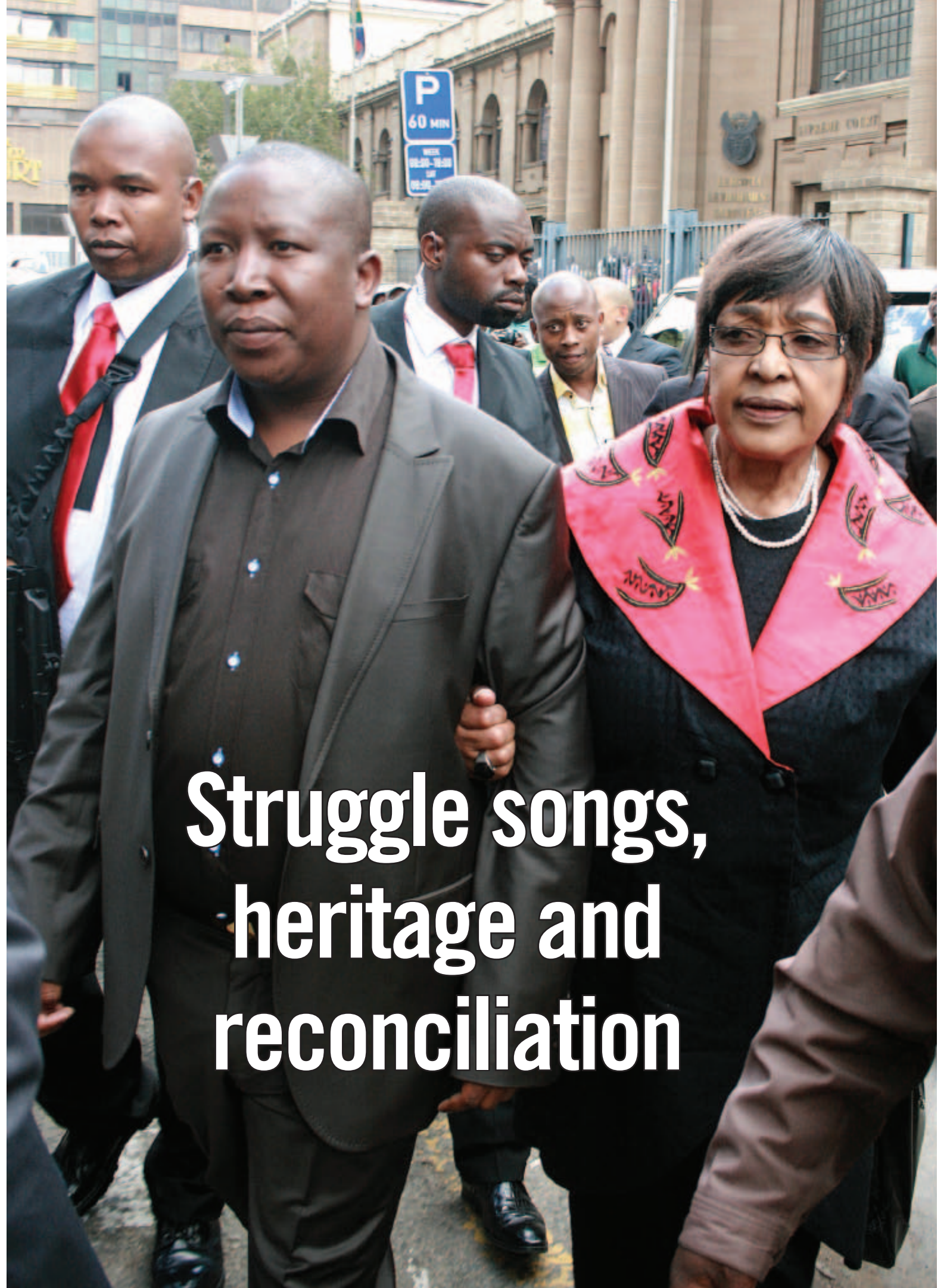
Together with British philanthropist Richard Astor, Solms established a trust through which a one-third equity stake was given to the estate’s historically disadvantaged residents and employees. Profits from the farm have contributed to improved housing, social programming, and better access to healthcare and education.

Gobodo-Madikezela observes that Solms-Delta ‘illustrates the essence of transformative dialogue, a principled commitment to a communal ethic based on values embodied within a framework of responsibility for the other. Such a framework,’ she adds, ‘requires a process of moral imagination, a certain intentional openness to the possibility of reaching out beyond the self and towards the other.’

As I leave Solms-Delta, it is clear that while these farm workers do not think about the word ‘reconciliation’ every day, they are living proof that it is possible. 

*Crystal Orderson is a freelance journalist.*





# Struggle songs, heritage and reconciliation

Historic anthems that do not reflect the values of the Constitution are best preserved in museums and other memory sites, writes CECYL ESAU.

**A**NC Youth League president Julius Malema's political ascendance in recent years has made him an important opinion leader. His frequent and often controversial public pronouncements are almost always guaranteed to elicit a gamut of emotive responses, from adulation to derision, and even legal action. Yet love him or hate him, Malema's frequent public singing of anti-apartheid anthem *Dubulu iBhunu* has brought into sharp focus important questions of whether or not South Africa's historic 'struggle culture' has a place in the nation-building and social cohesion projects of the post-apartheid era.

The position of Afriforum has been that the lyrics of *Dubulu iBhunu* are a polarising force in democratic South Africa. The organisation, which brought charges of hate speech against the Youth League leader earlier this year in the Equality Court, alleges that Malema's singing of *Dubulu iBhunu* has provoked targeted violence against white South Africans, and farmers in particular. Afriforum has called for a ban on the historic songs' lyrics, which it translates as 'Shoot the *Boer*', but Malema and his supporters maintain that it remains an important element of national heritage. In their view, rather than being directed at any group in particular, *Dubulu iBhunu* echoes an important call to wipe out any vestiges of apartheid in democratic South Africa.

As in other societies characterised by injustice, oppression and discrimination, resistance against colonialism and apartheid produced rich and varied forms of cultural expression in South Africa. Struggle songs, in this country and elsewhere, have constituted powerful weapons of protest. Do these still have a place in the post-liberation context?

South Africans' views are relatively divided on this issue. When asked in the SA Reconciliation Barometer survey earlier this year about approval for the singing of historic songs, even if they appear to go against the values of the Constitution, 43% agreed that this was acceptable, 26% disagreed and 19% were uncertain.

Malema has undoubtedly become the infamous champion of *Dubulu iBhunu*, but he is not alone in his defence of the preservation and continued use of struggle songs. President Zuma continues to sing historic call to arms *Umshini wam*, and has maintained that 'if you erase the songs, you erase the record of history'. In representations to the Truth and Reconciliation Commission (TRC), then ANC deputy secretary-general Cheryl Carolus argued that the lyrics of anti-apartheid songs should not be taken literally. She compared these to the Afrikaans lullaby *Siembamba*, which translates in English as: '*Siembamba*, Mummy's little child, twist his neck, chuck him in the ditch, stomp on his head then he's dead.'


However, as with the general public, the acceptance of these historic songs has not been universal among all ANC members. While Carolus defended song texts before the TRC, former ANC chairperson Mosiuoa 'Terror' Lekota called for the development of new anthems which would endorse and celebrate democracy, and explore the challenges of the new era. At the time, Lekota's proposals were drowned out amid a dramatic leadership and succession race within the party. However, the building and consolidating of South Africa's democratic order is a multi-dimensional process. It should also be an inclusive one. These suggestions, therefore, perhaps warrant further consideration.

The richness of South African struggle culture should certainly not be abandoned wholesale. Indeed, efforts to suppress 'struggle culture' risk eliciting the same kind of resistance cultivated under apartheid – and indeed giving old texts new life. And some of these, like *Dubulu iBhunu* and *Siembamba*, may be inappropriate or inconsistent with the values of our society today.

A positive first step may be to once again revive some of the many more unifying struggle songs used historically, ones that have maintained currency throughout our democratic transition. Popular verses within the Black Consciousness Movement, for example, emphasised civic responsibility: 'Freedom isn't free, freedom isn't free, you got to pay the price, you've got to sacrifice, and each generation must learn it anew, that freedom isn't handed down to you.' The difficulty in this approach, however, remains the questions of who becomes the arbiter of what is appropriate and what is not, and whether this can be resolved without continual court bids.

Further, it is time that those who fought so bravely for democracy to take the lead in creating new forms of cultural expression, with individual and collective efforts in this regard fundamentally oriented towards, and consistent with, the values of the Constitution.

This process is also not an easy one. Superficially, and to cynics, it might appear that the development of texts to inspire unity and mutual understanding would be more difficult than writing anti-apartheid songs, when a common enemy and a shared goal were so apparent. This should not deter us from taking up the challenge.

Struggle songs like *Dubulu iBhunu* cannot be erased from our collective memory, and merit preservation for their role in mobilising the people against injustice and discrimination. Yet as such, they may now be best preserved in South Africa's many sites of memory and history, and not sung publicly. 

*Cecyl Esau is leader of the IJR's oral history project.*



---

# IJR Dialogue

## Employment Equity Ticking Boxes or True Transformation?

On 4 May, the IJR co-hosted a public dialogue on employment equity with the Rethinking 'Race' and Affirmative Action in the United States and South Africa project. Here are excerpts from presentations made by panelists Dr Zimitri Erasmus, Ian Ollis, James Ngculu, Kashif Wicomb and Ernst Roets.

### ZIMITRI ERASMUS, UCT

In my view, the specific objective of employment equity (EE) is to create opportunities and increase access for those historically excluded from the semi-skilled and skilled job market, and from further education – people excluded specifically on the basis of apartheid race categories, gender and disability. Its broader objective is to enable the successful use of such opportunities with a view to building a more socially just society, and with a view to cultivating learning and work settings in which the experiences and voices of all residents of South Africa can be heard, valued and challenged.

The meeting of these objectives has been highly uneven, partly because most forms of EE implementation have focused more on numbers of people from the different apartheid race categories, than on the ethos of social justice that is meant to accompany those numbers. Demographics have overtaken the politics of EE, in light of South Africa's history of exclusion. This is not to say that the way these demographics are used is not itself political.

Furthermore, those who have until now benefited from EE have for the most part been among the privileged in their respective communities. In other words, EE programmes have in most cases been implemented separately from issues of broader social justice.

For me, one facet of the most effective way of realising these goals is to have a multi-pronged strategy that aligns EE with issues of broader social justice, such as poverty, unemployment, and access to services. In other words, while EE attempts to reach the semi-skilled and the skilled, we also need to reach the unskilled and the poor with programmes that change their daily lives. For example, it does not serve the aims of social justice if the demographics of a local government structure are prioritised



over and above the need to deliver effective care and services to poor communities in cases in which local government posts are left vacant if a black person, woman or disabled person is not appointed.

Another facet of a more effective way of realising these goals is to think about ways in which we might move away from using apartheid race categories as proxies for disadvantage, toward indicators that encompass the issues we are trying to address. Our approach to EE implementation should be modified based on what we have learned from both its positive and negative outcomes over the last years. And, to use the terms of Adam Habib and Kristina Bentley, this means moving away from a nativist approach to EE toward a more civic approach.





### **KASHIF WICOMB, BLACK MANAGEMENT FORUM**

**T**ransformation, by definition, is a process of change from one qualitative state to another. It can be applied to an individual, an organisation, a product or service, and this is what government essentially aims to achieve through broad-based black economic empowerment (BBBEE) and employment equity (EE).

As South Africans, we must accept the importance of addressing apartheid's lasting effects. We must also dispel the myths that BBBEE and EE exclude members of particular races or minority groups by design. Affirmative action is actually about inclusion, and not discrimination. Section 42 of the EE Act, which focuses on assessments of compliance, refers to the need for 'suitably qualified people from and amongst the different designated groups', who are 'equitably represented within each occupational category and level in that employers' workforce'.

Without relying excessively on the 'numbers game', recent statistics underscore the need for equity interventions. According to the Commission for Employment Equity, in 2009 South Africa's economically active population (EAP) was 74% African, 11% coloured, 3% Indian and 12% white. These proportions are clearly not replicated in top management structures across the country, in which only 20% are filled by Africans, 5% by coloured people and 7% by Indians. Sixty-four percent of top senior management positions are filled by our white compatriots.

These data confirm, first, that transformation has not yet been achieved, and further, that current employment practices have not translated into discrimination against minority groups. The sectors that are least transformed are retail, motor repair services, wholesale, trade and commercial agents and allied services. These sectors also lack codes of conduct, or charters that map out employment objectives.

Government, as legislators and the custodians of BBBEE, has

focused its transformative efforts on achieving change in five key areas: ownership, management and control, EE, preferential procurement and enterprise development. The private sector has honed in on the issue of enterprise development in particular as an area with prospects for new trade and opportunities for the creation of semi- and low-skilled jobs, as well as in preferential procurement. These emphases are an important contribution, because it is the duty of society at large to address the need for greater economic participation, and not only the state.

I encourage you to consider that when we engage with youth, we should not speak about carrying CVs in one's backpack, but rather about carrying business plans. We need youth to become job enablers, to form businesses and use BBBEE for this purpose. Provide services to the corporate sector instead of standing in the queue asking for a job. If you understand transformation in this context, it is possible to see that EE and BBBEE are in fact inclusive processes.

### **JAMES NGCULU, AFRICAN NATIONAL CONGRESS**

**I**n the past, the colonial and apartheid regimes operated on institutionalised inequality in South Africa, specifically by race. For us within the African National Congress (ANC), the need for measures to reverse the consequences of these policies and encourage greater equality were self-evident. Following the transition to democracy, the Constitution has enjoined South Africa to take measures to redress past racial, gender and other forms of discrimination in order to bring about greater equality. Employment





equity (EE) and affirmative action (AA) are among these measures.

First conceptualised by Canadian judge Rosalie Silberman Abella in 1984, employment equity refers to a process for achieving greater equality in workplace opportunities. It recognised that systemic discrimination had to be consciously addressed, and that this could potentially encourage greater stability and national identification.

South Africa promulgated EE legislation in 1998, with the purposes of: promoting equal opportunity and eliminating discrimination, redressing disadvantages, and ensuring equitable representation in all occupational categories and levels in the workplace. Designated groups benefitting from EE, identified by race, gender and physical ability, were specifically marginalised and subjected to state-mandated prejudice under apartheid.

Many South Africans today have embraced a collective amnesia, believing that apartheid respected merit in the workplace more than the current system and that government orchestrated a systemic purge of the public service to make room for post-apartheid appointees after 1994.

In fact, during the negotiated transition the ‘Sunset Clauses’ crafted by Joe Slovo meant that apartheid-regime civil servants – black and white – were able to work out their contracts and stay on in the new government if appointed by vocation. Members of the ‘old guard’ who left of their own volition received handsome severance packages. These ‘golden handshakes’ appear to have been quickly forgotten.

Vacated posts were, of course, filled with competent candidates, the majority of whom were black. However, there was – and remains – urgency to the implementation of greater workplace equity, and the 1998 EE legislation was a measure to move matters along. Yet reports from Statistics South Africa and the SA Institute of Race Relations (SAIRR), among others, still indicate that black graduates are far less likely to find suitable employment within six months of graduating than their white counterparts.

The record suggests that when left to its own devices, the private sector will systemically discriminate. Of 3 952 direc-

tors of JSE-listed companies, 3 311 are white, and only 5% are women.

Both EE and AA are designed to render themselves unnecessary, and ultimately bring about an environment in which the state no longer needs to intervene to bring about equity. These policies have indeed yielded positive results to date. Earlier this year, Reserve Bank Governor Gill Marcus announced that 19% of senior positions in South Africa are held by women, compared to 17% in Canada, 14% in the USA and 8% in Australia. While improvements in racial representation are still required, South Africa has already surpassed developed countries with regard to gender.

South Africa faces a choice: either to devise policies that accelerate greater equality, or to leave matters to other forces and invite chaos. To me it is obvious which course of action makes the most sense.

## IAN OLLIS, MP, DEMOCRATIC ALLIANCE

I currently represent the Democratic Alliance (DA) on the parliamentary portfolio committee on labour, which will soon be working to improve on proposed draft amendments to the Employment Equity (EE) Act. As these have not been entirely accepted by the public, they are being redrafted by the labour department and debated within the National Economic Development and Labour Council (NEDLAC), before ultimately returning to parliament. The time, therefore, is right for this discussion.

There seems to be relatively wide acceptance that the EE Act is not achieving its goals. Our committee has heard presenta-





tions emphasising the need for post-apartheid redress, particularly for severely disadvantaged South Africans without skills and facing bias in the workplace. Secondly, we need to turn this situation around, and think of ways to go forward.

Certainly, 'box-ticking' is problematic at present. Every government form requires the ticking of boxes. I am a gay South African and there is no box for this, though some maintain that we were previously disadvantaged. However, categories reinforce the problem, rather than representing the dream we have for South Africa's future.

Prospects for increasing equity are also compounded by issues of high unemployment and skills shortages. Even South Africans with university degrees are not finding jobs today. Our legislation really needs to take into account a longer-term view, and incorporate skills development and training. Current shortfalls are not going to be alleviated quickly or easily. New forms of social engineering are not a solution to the problems caused by apartheid. Rather, legislation needs to help 'normalise' our current situation.

To share an anecdote, the black man sitting next to me on the plane this morning is deputy chair of a large independent mine in South Africa. When I asked him about his impressions of EE legislation, he responded that it should be scrapped. When I asked why, he replied: 'All we are achieving with [EE legislation] is changing shares between companies, from one privileged group to another. We are not doing anything about the large numbers of unemployed people, many of them black, who don't have jobs. You give points because of changes in the faces of companies, and among their shareholders. I would like to see points awarded to the guy with nothing who starts his own business, builds that company up from nowhere, and employs people. He's helping so many people, not just changing the colour scheme of boards and shareholders.'

We definitely need to bring about change in South Africa and we have not arrived yet by any means. However, the current system is not working well, and box-ticking and stereotypes have been inculcated in the legislative process. We need to find a better way.

## ERNST ROETS, AFRIFORUM

I would like to start by referring to the case of Renate Barnard case, a police officer who applied for a new opening in her department in 2005. The position focused on promoting service delivery within the SAPS, and Barnard's application received almost 90% approval based on her performance and experience. She was rated almost 20% better than the applicant in second place, and was unanimously recommended for appointment. However, because she was a white woman, she was not offered the job.

The position was re-advertised. Barnard re-applied, again receiving almost 90% approval from a new panel. She was once




again recommended for appointment, this time to more senior officials, but was once again turned down.

When Barnard applied for the position a third time, a decision was taken to discontinue the process altogether. Perceiving this to be racial discrimination, Barnard took her case to court, and won. The police department filed an appeal, in which it argued that consideration of racial demographics in the workplace should carry more weight than service delivery.

While we are unsure of the outcome of the case, it is a good illustration of our concerns over affirmative action (AA). The dramatic irony of AA in South Africa is the difference between its aims and its outcomes. We live in a very unequal country, and we have tremendous concerns about poverty. Addressing these issues is a non-negotiable starting point, over which there is little disagreement. However, practically speaking, politicians and decision-makers are contemplating how to rule out the categorising of people by skin colour, and in fact their response is to do just that.

The first issue relates to our understanding of equality. AA purports to be a response to the need for greater equality, but the debate has been reduced to statistics alone. There is a perception that if we have two different people fulfilling the same job, equality has arrived. There is no consideration of deeper, substantive equality.

Another main concern is that our current policy is outcome-based, when we should be focusing on our inputs. If a team of runners wants to reach the finish line at the same time, this does not mean having different starting points. Rather, there needs to be investment in proper training facilities, the building of a good gym, and provision of the right *takkies*.

The International Labour Organisation recommends that AA should not be a permanent clause in legislation, but should rather be a temporary tool for eradicating racialism. That's not what we see in South Africa today. 

# Are we democratic citizens?

South Africa's democratic consolidation is threatened by rising levels of intolerance and an inadequate response from independent institutions, writes AYANDA NYOKA.

In South Africa, violence was systematically used as a tool to enforce civil and political repression by the apartheid government and its security forces. It was also used by resistance movements, such as the armed Umkhonto we Sizwe (MK) wing of the African National Congress (ANC), as confidence in the effectiveness of non-violent struggle dwindled among some South Africans.

Seventeen years into democracy, it should perhaps not come as a surprise that a legacy of violent mobilisation, particularly against those perceived to be 'political enemies', has not yet been completely eradicated. Evidence of this often comes to light around election time, and sporadic outbursts observed by the Election Monitoring Network (EMN) in May confirm this reality. The EMN highlighted intra-party conflict surrounding local government elections earlier this year, and voiced concerns over possible tensions and violence in Cape Town, Nelson Mandela Bay, Tshwane and parts of eThekweni. Conflict, the network noted, could also be fuelled by factors such as 'inflammatory and inappropriate messages from parties', media sensationalising, 'potentially unrealistic promises being made by politicians', and possible attempts to 'impede the voting process'.

In 2010, the SA Reconciliation Barometer survey found low, but marginally increasing approval for violent, extra-legal action in cases in which citizens felt their human rights were being violated. Further, the potential consequences of rising approval for violent action may be compounded by low levels of trust in some spheres of government and public institutions. According to the report, 'only 43% of South Africans report confidence in local government, which remains the key point of interaction between citizens and the democratic state'.

The Centre for the Study of Violence and Reconciliation (CSVr) has argued that the dichotomisation between criminal and political violence that occurred through the Truth and Reconciliation Commission (TRC) process may in fact have con-



tributed to conflict we are seeing in South Africa today. One of the TRC's unintended consequences, the CSVr maintains, may have been the legitimising of political violence through both the granting of amnesty to participating perpetrators, as well as perceptions of impunity on the part of some prominent leaders on all sides of the conflict.

Today, this is perhaps even further inculcated by the ways which national liberation discourse continues to be used, for example through the singing of historic struggle anthem *Dubulu iBhunu*, as explored by Cecyl Esau elsewhere in this newsletter edition. Should it then come as any surprise that communities are easily rallied to mob justice, and that this is viewed as an acceptable way to deal with perceived criminals in townships?

The challenge of breaking away from past practices, and those posed by a resilient belief in the legitimacy and expediency of violent approaches to problem-solving, is indeed complex. First, it is important that as South Africans, we continue to take up the task of constructing and upholding a national democratic identity. There is a danger in assuming that this will be assumed by public institutions alone, particularly when some of these very institutions are so far removed from communities.

Further, this identity needs to be constructed around greater tolerance and emphatic respect for human rights. This challenge is not unique to South Africa alone; it is shared by many other African countries transitioning from decades of authoritarian-





**The potential consequences of rising approval for violent action may be compounded by low levels of trust in some spheres of government and public institutions.**

ism and patriarchy, and in which gains in human rights need to be carefully protected. The 2008 xenophobic attacks were a stark example of profound intolerance, in contrast with the values enshrined in the Constitution.


Intolerance of this kind, given expression through violence, affords little regard for the rights of the perceived 'enemy'. The boundaries and limits to individual and citizen action have further been blurred, for example, by police commissioner Bheki Cele's call to 'shoot to kill' alleged criminals, without due process of the law. This of course backfired when innocent citizens fell victim to this policing strategy.

Tolerance does not mean that citizens must universally accept values or behaviours with which they disagree, but it does demand the acceptance of plurality and respect for the rights of every individual in the country, in accordance with the Constitution. Reports in May of a recent resurgence of xenophobic attacks on Somali nationals in Port Elizabeth should serve as a warning that we have not done enough to engender a strong democratic culture.

Greater tolerance also does not thrive in a top-down governance environment. Limited opportunities for citizen participation create an antagonism towards government, and have contributed to a climate in which distaste and disrespect for the rights of others are almost fashionable. In this context, opportunities for upholding a shared vision are diminishing.

One approach to turning the tide of intolerance in South Africa would be to adopt civic education models like those used in Kenya, which empower citizens to have agency and participate in local government affairs. Though many South Africans may understand human rights 'on paper', they appear to be taking matters into their own hands when political leadership appears unresponsive, and the voices of ordinary citizens are not taken into account.

Greater responsibility also needs to be taken by political leaders, and in internal party processes. Campaign onslaughts should not be left unchallenged, including recent comments to the ANC Youth League by IFP president Mangosuthu Buthelezi: 'Trespassers will be dealt with. This is a first and last warning.' Such rhetoric has the potential to reinvigorate a history of political conflict between the two parties, from the 1980s up until 2000.

Despite the appearance of relative political stability, South Africa remains volatile in many respects. In 1994, we could not have predicted that we would witness a massacre of black foreign nationals in 2008. We need to remain vigilant, and we cannot afford to downplay articulations of intolerance or the further normalising of violence. The time is right to work to transform deep-seated and pervasive undemocratic attitudes. Strong institutions that hold political leaders accountable, a critical civil society and an engaged and participatory citizenship are key for a shift in our political culture. 

*Ayanda Nyoka is an intern in the IJR's Political Analysis programme.*

# South Africa documents

CAROLINE RUETSCH explores the impact of South Africa's Zimbabwean Dispensation Project and finds that, outcomes of the process pending, it holds promise for regularising the status and improving the daily lives of undocumented migrants.

'A good move.' This is how an anonymous, undocumented migrant described South Africa's Zimbabwean Dispensation Project (ZDP) during a recent interview in Cape Town.

Zimbabwean citizens make up by far the largest group of foreign nationals in South Africa, though their actual numbers are often the subject of exaggerated speculation. Many left their homes in Zimbabwe to escape food insecurity, economic hardship, the spread of disease such as cholera, unchecked due to a failing healthcare system, and political repression and violence.

Despite this variety of migration 'push factors', most Zimbabweans in South Africa are universally considered to be 'economic migrants'. Due in part to the difficulty of meeting visa requirements, which are viewed by many as too time-consuming, overly onerous or insurmountable, many 'jumped the fence' and entered South Africa illegally.

For this reason, many Zimbabweans lack not only the documentation they need to confirm their legal right to stay in South Africa, but also those required to prove their identity. With the aim of regularising the stay of undocumented migrants currently in the country, the South African department of home affairs (DHA) invited Zimbabweans to apply for special permits between 20 September and 31 December 2010, through the ZDP. During this time, the department received 275 762 applications from migrants seeking documentation, and intends finalising the process by the end of July 2011.

Qualitative interviews conducted with several Zimbabweans in Cape Town during April and May of 2011 suggest that, among these research participants, approval for the objectives of the ZDP was high.

Less agreement was evident, however, on the issue of the effectiveness of actual implementation. Interviews suggest several controversial elements of the project as a whole. To begin, some suggested that there should have been broader consultation with a larger number of stakeholders, prior to the start of the ZDP's application phase. For others, service delivery was inadequate, with long queues forming outside DHA offices, and the window period for submitting applications as too short.

A further complicating factor is that some interview par-

ticipants expressed the view that Zimbabwean authorities did not respond quickly enough in order to supply the passports required by nationals in South Africa. Some found instructions and directives issued by the DHA to be confusing and unclear, and that changes made during the process were not communicated widely enough. Further, the question of why the dispensation was only open to Zimbabweans, and not migrants of other nationalities, was also raised.

Despite all these complications and questions, which made applications to the ZDP more difficult and time-consuming for interview participants, these were ultimately not a deterrent from applying altogether.

One question remains, however: the exact number of Zimbabweans in South Africa at present is unclear, but anecdotal and other reports suggests that there are significantly more undocumented Zimbabwean nationals in the country than the number of actual dispensation applicants. Why then did more not apply?

Vincent Williams, manager of the Southern African Migration Project (SAMP), suggests that distrust among undocumented migrants could be a contributing factor to the relatively low uptake numbers. '[Undocumented Zimbabweans] may have thought this was a way to catch them and send them back home,' he said.

A female Zimbabwean interview participant also suggested that the costs associated with acquiring documentation were a potential deterrent, stating that the cost of a Zimbabwean passport was prohibitive, even for migrants earning above-average wages.

PASSOP is a human rights organisation that advocates for the rights of asylum-seekers, refugees and migrants in South Africa. Director Braam Hanekom commented that the ZDP largely targeted those in formal employment. Many migrants believe that they would be unable to afford the high fees charged for a passport, and have been discouraged by past negative experiences with migration management structures. This reluctance may have

**An interview participant also suggested that the costs associated with acquiring documentation were a potential deterrent, stating that the cost of a Zimbabwean passport was prohibitive.**




# the undocumented



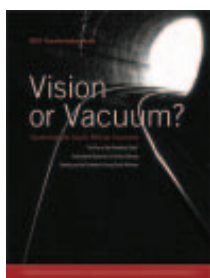
been further compounded by criticism of the ZDP, for example, by civil society organisations.

Ultimately, the effectiveness of the ZDP can only be assessed when all of the applications have been processed and the initiative concluded. It also remains to be seen whether or not those who are waiting for Zimbabwean passports are able to obtain these in good time. Furthermore, the success of this approach – in the eyes of migrants themselves – will be influenced by the percentage of applications approved.

If these issues are indeed overcome, the ZDP may indeed have been a ‘good move’. As Hanekom observes, processing so many

applications from undocumented migrants is ‘no small achievement’. Importantly, for those whose applications are approved, the project will ultimately facilitate legal and safer travel, greater security of residence, and improved access to services such as healthcare and education, as well as private banking and credit. These have great potential to significantly improve migrants going about their day-to-day lives in South Africa. This is certainly a step in the right direction. 

*Caroline Ruetsch is a Masters student in post-war recovery studies at the University of York.*



### 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.

This publication has been made possible with the financial support of the Royal Netherlands Embassy, the Swedish International Development Cooperation Agency (SIDA), the Charles Stewart Mott Foundation and the Evangelischer Entwicklungsdienst (EED). The views expressed herein do not necessarily represent those of our donors.

### 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](mailto:kate@ijr.org.za).

For project updates, analysis and commentary, visit the SA Reconciliation Barometer blog at <http://www.sabarometerblog.wordpress.com>

### THE INSTITUTE FOR JUSTICE AND RECONCILIATION

Contact Details:  
House Vincent, Ground  
Floor, Wynberg Mews  
Cnr Brodie and Ebenezer Rd  
Wynberg, 7800  
Cape Town  
South Africa

EDITOR: Kate Lefko-Everett  
DESIGN & CONCEPT: Compress DSL  
PRINTING: RSA Litho

IMAGES: Cover and page 15 © Africa Media Online; page 2 © Gareth Jones; page 3, top images © Marian Matshikiza; page 3, bottom image © Jenn Warren; pages 8 to 11 © Michaela Verity; pages 6 and 12 © Picturenet.

Tel: +27 21 763 7128  
Fax: +27 21 763 7138  
E-mail: [info@ijr.org.za](mailto:info@ijr.org.za)

