



Post-Apartheid Reconciliation and Coexistence in South Africa

A Comparative Study Visit Report

30th April – 7th May 2013





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May 2013



Published by
Democratic Progress Institute
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London WC1N 1DH
United Kingdom

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First published, 2013

ISBN: 978-1-905592-73-9

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Contents

Foreword.....	7
Tuesday 30th April –Visit to Robben Island, Table Bay, Cape Town.....	9
Welcome Dinner at Queen Victoria Hotel.....	12
Wednesday 1st May – Visit to Table Mountain	17
Lunch at Quay Four Restaurant, Cape Town.....	18
Session 1: Meeting with Fanie Du Toit, Victoria and Alfred Hotel Boardroom, Cape Town.....	21
Dinner Meeting with Laurie Nathal, Baia Restaurant, Cape Town	40
Thursday 2nd May – Session 2: Meeting with Dave Stewart, Victoria and Alfred Hotel Boardroom, Cape Town.....	53
Tour of the Parliament of the Republic of South Africa, Cape Town	67
Session 3: Meeting with Nomaindia Mfeketo	68
Lunch at Bo-Kaap Kombuis Restaurant, Cape Town	79
Session 4: meeting with Dr Shuaib Manjra and Judge Siraj Desai	80
Dinner with Yunis Carrim, Gold Restaurant, Cape Town.....	97
Friday 3rd May – Visit to the Midrand Mosque, Johannesburg	109
Visit to the Apartheid Museum, Johannesburg	110
Visit to Soweto, Johannesburg	111

Dinner at Bukhara restaurant, Johannesburg	112
Saturday 4th May – Sunday 5th May – Safari at Madikwe Safari Reserve.....	112
Dinner hosted by Kaan Esener, Pretoria.....	114
Monday 6th May – Session 5: Meeting with Roelf Meyer and Mohammed Bhabha, St Albans College, Pretoria	114
Lunch with Ebrahim Ebrahim and Essop Pahad at KOI Restaurant, Pretoria	143
Session 6: Meeting with Deputy President Motlanthe, Union Buildings, Pretoria	156
Dinner at Kream, Johannesburg	168
Tuesday 7th May – Session 7: Meeting with Moe Shaikh at the Development Bank of Southern Africa, Pretoria.....	178
Session 8: Meeting with Baleka Mbete, ANC Headquarters, Johannesburg.....	192
Lunch hosted by Judge Zac Yacoob, Clico Boutique Hotel, Johannesburg.....	192
Appendix.....	194
Participants from Turkey	194
Participants from South Africa	196

Foreword

DPI aims to foster an environment in which different parties share information, ideas, knowledge and concerns connected to the development of democratic solutions and outcomes. Our work supports the development of a pluralistic political arena capable of generating consensus and ownership over work on key issues surrounding democratic solutions at political and local levels.

We focus on providing expertise and practical frameworks to encourage stronger public debates and involvements in promoting peace and democracy building internationally. Within this context DPI aims to contribute to the establishment of a structured public dialogue on peace and democratic advancement, as well as to create new and widen existing platforms for discussions on peace and democracy building. In order to achieve this we seek to encourage an environment of inclusive, frank, structured discussions whereby different parties are in the position to openly share knowledge, concerns and suggestions for democracy building and strengthening across multiple levels. DPI's objective throughout this process is to identify common priorities and develop innovative approaches to participate in and influence the process of finding democratic solutions. DPI also aims to support and strengthen collaboration between academics, civil society and policy-makers through its projects and output. Comparative studies of relevant situations are seen as an effective tool for ensuring that the mistakes of others are not repeated or perpetuated. Therefore we see comparative analysis of models of peace and democracy building to be central to the achievement of our aims and objectives.

This report details the activities and roundtable discussions experienced during DPI's Comparative Study visit to South Africa which took place from 30th April to 7th May 2013 and was kindly hosted by the South African Government. The timing of the visit was of particular importance and relevance due to the recent developments in Turkey resulting in a ceasefire, commencement of PKK withdrawal and public and private dialogue surrounding peace. The study focused on the subjects of Reconciliation and Coexistence in South Africa following the end of the apartheid regime in 1994. It falls within DPI's series of Comparative Study visits, following those to the United Kingdom and Ireland. We hope that this Comparative Study has proven valuable for participants, and that it will contribute to ongoing discussion in Turkey.

With thanks to Alice Curci and the staff of DPI for their assistance with this report. DPI also gives special thanks to the South African Government for their hosting of the visit.

Kerim Yildiz

Director
Democratic Progress Institute
May 2013

Tuesday 30th April –Arrival and Visit to Robben Island, Table Bay, Cape Town

With:

Mohammed Bhabha¹, Advisor to Development Bank of Southern Africa and former ANC negotiator.

Venue: Robben Island, Table Bay, Cape Town



The delegation on Robben Island

Robben Island is an island in Table Bay, west of Cape Town. The name is Dutch for ‘seal island’ and since the 17th century it has been used for the isolation of mainly political prisoners, being the Dutch settlers the first to use it as a prison. Nobel laureate and former president of South Africa Nelson Mandela was imprisoned on Robben Island for 18 of the 27 years he served behind bars before the fall of apartheid. Today it is a World Heritage site and

¹ Mohammed Bhabha is a South African attorney who was part of the ANC negotiating team at the Convention for a Democratic South Africa, and contributed to the negotiations for the final South African Constitution. He was seconded from DBSA to the Department of Co-operative Governance and Traditional Affairs where he currently acts as Advisor to the office of the Deputy Minister. He is currently assisting in the Constitution-making process in Kenya. Previous posts and achievements include: Non-executive director on the Board of Evraz Highveld Steel Chairperson of the Select Committee on Local Government and Constitutional in the Senate

museum since 1997. The museum is a dynamic institution, which acts as a focal point of South African heritage.

The delegation received a private tour of Robben Island Museum, to learn more about the history of apartheid. Among the sites visited during the tour, the following were felt to stand out:

Robert Sobukwe's cell

Robert Sobukwe, founder of the Pan Africanist Congress, was arrested on March 21, 1960, following the Sharpeville Massacre. After having served the three years to which he had been sentenced, his imprisonment was renewed for six more years thanks to an ad-hoc enacted law, the so called 'Sobukwe Clause'. He spent his nine years of imprisonment in solitary confinement in this cell, composed by a small bedroom and a separate kitchen.



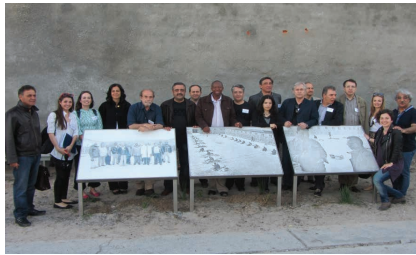
*DPI Director Kerim Yildiz and DPI council of Experts
Member Mithat Sancar in Sobukwe's cell*

The Maximum Security Prison

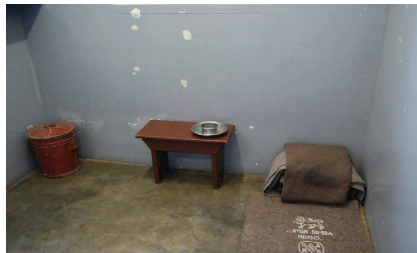


Entrance gate of the Maximum Security Prison

The delegation was escorted through the prison by former political prisoner 5682, who introduced himself as Sparks. A member of the military wing of the African National Congress, he was arrested at the age of 17 for conducting recruitment activity and for possession of unlawful arms, and imprisoned in Robben Island under charge of Terrorism. Arrested in 1982, he was not released until 1990. There, the participants were able to retrace the path of Nelson Mandela, visiting the prison block and the very cell where he was detained during the 18 years he spent on the island.



*The delegation in the Maximum Security Prison's courtyard
with Sparks and Mohammed Bhabha*



*Nelson Mandela's cell
Courtesy of Wikimedia Common*

Tuesday 30th April – Welcome Dinner at Queen Victoria Hotel
Dinner at Dash Restaurant at Queen Victoria Hotel hosted by
Democratic Progress Institute Director, Kerim Yildiz.

The delegation was warmly welcomed to South Africa by Ivor Jenkins and Roelf Meyer, who shed light on the purpose of the visit and introduced the participants to the In Transformation Initiative, the organisation that assisted in facilitating of planning the visit.

With:

Mohammed Bhabha, Advisor to Development Bank of Southern Africa and former ANC negotiator

Ivor Jenkins,² Consultant and Director at IN Transformation Initiative

Roelf Meyer,³ Founder and Co-Leader of the United Democratic Movement

Venue: Dash Restaurant at Queen Victoria Hotel, Cape Town

2 After 30 years of experience in organising, managing and leading civic and civil society organisations, Ivor H Jenkins has gained the reputation of a pragmatic problem solving leader with a high commitment to participative decision. He played an important role in South African and African politics, assisting in the transformation of sectors such as political leadership, inter group relations, conflict management, governance systems transformation, organisational development, NGO Capacity building, project management and fundraising. Previous posts and achievements include: hosted and exposed international delegations interested in understanding the South African transition, Chief Operating Officer and Director at Institute for Democracy in South Africa.

3 Roelf Meyer is Founder and Co-Leader of the United Democratic Movement and was a Member of Parliament since 1979 until 2000, when he resigned from active politics. He is currently chairing the South African Defence Review Committee, in addition to serving on the boards of various companies and acting as a consultant on peace processes and Constitution making. Meyer played a key role for National Party and Government in the Multi-Party Negotiating Forum. Previous posts and achievements include: Deputy Minister of Law and Order and Constitutional Development (1968-1991), Cabinet Minister of Defence and Constitutional Affairs (1991-1996), Chief Negotiator of the National Party on the settlement of the South African conflict that resulted in the first democratic elections in 1994.



Ivor Jenkins welcomes the delegation

Ivor Jenkins: First of all, I would like to welcome you all to Cape Town. We are extremely happy to have you in our country. When our colleagues from the UK asked us to assist in facilitating your visit to South Africa, we immediately jumped on the opportunity. The reason why we did so is that we truly believe in the South African peace process and we are excited to share its principles with people across the world.

The three of us - Roelf Meyer, Mohammed Bhabha and I - have a little organisation that we say exclusively focuses on sharing the experience of the South African peace process with people from countries such as Bahrain and Sri Lanka, hoping that learning from our mistakes and our successes might be not only informative, but also helpful in dealing with their situation. Enjoy this one week in South Africa. You are going to see wild animals, you are going to see complicated politicians, you are going to see wonderful nature, and you are going to see the inside of boardrooms, and we really hope that this will result in a very positive learning experience for you, and that when you go back home next Tuesday, looking back at this experience you will realise it was worth your trip to South Africa. We are honoured to have you here. We really hope that you

will have a wonderful stay in South Africa, and that you will return many times in the future. Lastly, I want to welcome you one last time before leaving the floor to Kerim Yildiz, DPI Director, who will introduce your main speaker. Thank you.

Kerim Yildiz: Thank you Ivor. This core group has been working on this project for a long while, and today I am happy to welcome some new colleagues that are joining us for the first time. It has been almost one year since we started to plan this trip, and after various setbacks and inconveniences forced us to postpone it repeatedly, I am very glad to be finally here. I am pleased to announce that we have a full schedule of meetings and talks, many visits, and even a safari. Now let me introduce you to tonight's speaker, Mr Roelf Meyer. He is the founder and Co-Leader of the United Democratic Movement, and was deeply involved in the negotiation process as a Member of Parliament for the National Party, a position that he fulfilled from 1979 to 2000. Thank you for joining us tonight Roelf, it is a pleasure to introduce you to our delegation.



*DPI Director Kerim Yildiz and Founder of UDM Roelf Meyer
enjoying dinner at Dash Restaurant*

Roelf Meyer: Good evening everybody. First of all, I would like to express my appreciation to DPI Director Kerim Yildiz, to this organisation, and to all the colleagues who have managed to make this possible. We have been talking about this for some time now. I am delighted to have you all here for a number of reasons: the first one is that it brings us in contact with your beautiful country once again. I have had the pleasure to visit Turkey twice in my life, even though I have been only to Istanbul, I must admit. The first time I was there on holiday with my wife, while the second one, two years ago, I had the chance to take part in a conference there, where I was joined by Prof. Ahmet Insel. The second reason is that, as Ivor was saying, those of us who were involved in the South African peace process always like to help other countries in situations for which we think our experience could be informative and beneficial. But I want to emphasise immediately that we recognise that no two countries are the same and, more importantly, no two conflicts are the same. What is happening in Turkey is quite unique to the country and to the people of Turkey, just like what happened in South Africa was unique to our people. We are not trying to compare the two; all that we can do is to share our experience and try to find out where there may be points of similarity.

My two colleagues and I represent a little bit of that experience from South Africa. I believe it is important to point out that the two of them and I were previously opponents. Ivor was a moderate opponent, meaning that he was part of the liberation movement in South Africa, but only as a civil society member. He established an organisation within the white community to help the liberation struggle to bring down apartheid. In a way, he was opposing me, because I was part of the government in charge. Mohammed on

the other side was a political activist. He was from a very young age already an active politician supporting the ANC; he was actually my enemy, not just an opponent, and that is how we got to know each other. Later on, Mohammed, together with myself and many others, was part of the negotiation process that helped to bring together the opposing sides and find a political solution, particularly by negotiating a new Constitution which would give this country a democratic dispensation.

There are three things in particular which I wish you to retain from your visit to South Africa. The first one is that the negotiation process was completely inclusive: at the time that we started the negotiations there were a number of political participants in the process, some supporting the apartheid regime and others supporting the liberation struggle, and all of those were included in the negotiations. Secondly, the reason why we succeeded, despite the opposition that we initially had towards each other, is that we managed to build trust between us. There were three steps that led us to success: starting to know each other, starting to respect each other, and then starting to trust each other. The third point, which is extremely important, is that we took responsibility for the state of affairs that we found ourselves in, and we took upon ourselves the task of finding a solution. We did not rely on others from outside. The reality is that in South Africa we did not have any mediator or facilitator; we established a negotiating dialogue within South Africa, between South Africans, and I think this is a very important factor.

To conclude, I want to remind you that 23 years ago South Africa was on the edge of a civil war. We had reached the point where

a civil war could break out any day. And the way we succeeded in avoiding it and solving the conflict was by overcoming our differences. It was a bilateral process, started on both sides. But you will discover more about this in the days to come, and I look forward to sharing our experience with you further. Thank you again for coming to South Africa, thank you for making this visit possible. I hope that this will result in a long term relationship between us, and that you will find it useful for your path to peace.

Kerim Yildiz: Thank you Roelf, we all look forward to the first roundtable meeting tomorrow.

Wednesday 1st May – Visit to Table Mountain

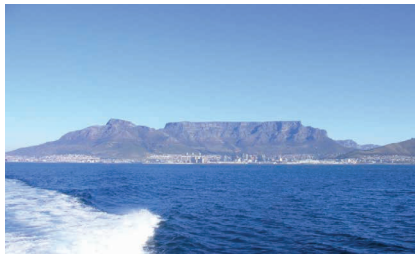


Table Mountain seen from the ferry to Robben Island

Table Mountain is a flat-topped mountain forming a prominent landmark overlooking the city of Cape Town. It is featured in the flag of Cape Town and other local government insignia. The Table Mountain cableway takes passengers to the plateau at the top of the mountain that offers views overlooking Cape Town, Cable Bay, Robben Island and the Atlantic Ocean.



The delegation on Table Mountain

Wednesday 1st May – Lunch at Quay Four Restaurant, Cape Town

With:

Mohammed Bhabha Advisor to Development Bank of Southern Africa and former ANC negotiator

Venue: Quay Four Restaurant, the Waterfront, Cape Town



Mohammed Bhabha in discussion with the delegation at Quay Four Restaurant

Mohammed Bhabha: Welcome to you all. Before we all enjoy our lunch, there is something I wish to draw your attention to: 20 years ago, before the end of the apartheid system, I could not have come to dine here. Black people were pushed out of the cities, and had to live in suburbs isolated far away from the centre; a famous one is Soweto, where Nelson Mandela used to live. You

will visit it in Johannesburg when you are there. Of course the whites still needed black people as workforce, so we were allowed to come in during working hours, provided that we had to exhibit an official permit. I hope I will not offend anyone by saying that this is pretty much what is currently happening in Israel. In the apartheid era everything was segregated here in South Africa: we could not go to the same restaurants, the same cinemas, not even to the same schools. That of schools was a particularly severe problem, the consequences of which we are still seeing. Back in the day, an educated black was a dangerous man, so they completely destroyed our system of education; now we are dealing with a huge problem of human capital that is going to take generations to solve. Our leaders and thinkers received an education mainly abroad, while they were forced in exile. They went to London and to East Germany and the Soviet Union, and that had a great influence on their ideas, and consequently on how our Constitution was written later on. The exile had all sort of consequences: just to give you an example, a significant number of our soldiers spent years exiled in neighbouring countries. The result was that they ended up settling down in those countries, getting married and building families.

When they were allowed back into South Africa, then, they did not come by themselves, but brought with them their families, which we had to help settling in, and it was not easy. We were not ready for that amount of people. On the other hand, we can say that the problem ended up fixing itself, as the soldiers were greeted as heroes here in South Africa, and it did not take long before most of them got remarried to South African women! Their old families often went back to their country of origin. Clearly another issue was that of reintegrating those soldiers into society: how do you

employ somebody whose only skill is to kill? We had been fighting for so long, and not just the apartheid regime: our country was divided into ethnic groups, and all of them had established their armed militias, including the government. We had a total of ten militias, and most of them were actually funded by the apartheid government itself. Their leaders were only puppets who were believed to have power, but in reality they were just being used: the regime armed them, and then sat in the back and watched them kill each other. When the ANC was unbanned, then, not only did we have to fight against the government, but also against all those groups of black people who were collaborating with it. We organised talks to try and make them come to their senses, but what they asked us instead was what they were going to gain in return for their collaboration. The quality of leadership is fundamental; this should not have been possible. For us, we had an amazing leadership, and a good structure of communication, which was absolutely crucial. You will be hearing much more about South Africa's history in the days to come, starting with our first session with Dr Du Toit this afternoon. Welcome again, and I wish you a very successful visit.

Wednesday 1st May – Session 1: Meeting with Fanie Du Toit, Victoria and Alfred Hotel Boardroom, Cape Town

Presentation and Roundtable Discussion: The story of the South African Truth and Reconciliation Commission

With:

Fanie Du Toit,⁴ Executive Director of Institute for Justice and Reconciliation

Venue: Victoria and Alfred Hotel Boardroom, Cape Town

Moderated by Mohammed Bhabha Advisor to Development Bank of Southern Africa and former ANC negotiator



Members of the delegation asking their questions to Dr Fanie Du Toit

⁴ Fanie du Toit currently serves the Executive Director of the Institute for Justice and reconciliation in Cape Town, specializing in post-conflict reconciliation and transnational justice with a focus on Africa. He has previously led national support strategies for the teaching of reconciliation, history and life orientation in South Africa. In 2008, the Institute was awarded UNESCO's International Prize for Peace Education in Paris in recognition of these efforts. Previous posts and achievements include: Visiting Research Fellow at Notre Dame University's Kroc Institute for International Peace Studies, Adviser to the United Nations Alliance of Civilizations, and Member of the Advisory Board of the Council for the Advancement of the South African Constitution.

Mohammed Bhabha: Good afternoon friends. Here we are again, working on the 1st of May, a day in which we are supposed to be resting! I am delighted to introduce you to Dr Fanie Du Toit, who represents the Institute for Justice and Reconciliation. The Institute was established in 2000, in the aftermath of the Truth and Reconciliation Commission. Its aim was to ensure the lessons learnt from South Africa's transition from apartheid to democracy were taken into account as the country moved ahead. Today the Institute helps to build fair, democratic and inclusive societies in Africa through carefully selected engagements and interventions. The institution defines its mission as shaping national approaches to transitional justice and reconciliation in Africa by drawing on community intelligence as well as macro-trend research and comparative analysis. Dr du Toit is the founder of the IJR, and the personnel of the institute are drawn from the very people who worked as researchers for the TRC. The focus of the discussion will be the entire Truth and Reconciliation process, and Dr du Toit will talk about not only the process's structure and what it meant for South Africa, but also about his own work for the commission.

Fanie Du Toit: Thank you very much, Mohammed for your introduction. And colleagues, thank you very much for giving me the opportunity to come here and share my experience, ideas, and insights on political transition with you. It is a great honour to be speaking to you. I have read your briefing paper and looking at the individuals here in this boardroom I realise it is a very high profile delegation, which we are honoured to be hosting here in South Africa. Political transition, meaning the way in which countries move from one dispensation to the other relatively peacefully, is an area that is very much debated but very seldom properly studied.

I am not going to comment on Turkey today, because I do not know enough about your beautiful country. I will tell you about my country, South Africa, and our journey from apartheid to democracy.

Allow me to make a couple of preliminary points about the TRC, the Truth and Reconciliation Commission. First of all, it is very important that nobody should ever think that a TRC is a 'silver bullet', an automatic solution to the problems of a country. It can instead make things worse if it is not established in the right context; it is important to evaluate the context of the transition very carefully before actually instituting mechanisms. Also, South Africans are a little bemused to find out that we have become a model to people, because we understand that our institutions were crafted specifically for our own purposes and very much in an imperfect way, since they were established while events were still occurring, and we did not have the luxury of taking time to think through it all carefully. Every country should develop its own institutions; it should not 'copy and paste'. A lot of my job is to go around the continent to dissuade people in other countries from adopting our model; I always advise them to do it their own way, and to debate carefully every detail in their mandate. Secondly, the TRC in South Africa was a reasonably successful one because of the political context at the time, which was the context of politics of reconciliation. About three weeks ago, I was in Tunis with the first UN sponsored conference on victims and victims' rights after the fall of the Ben Ali regime two years ago. They were organising a Truth and Dignity Commission in Tunisia, but it was quite clear to me that this commission would face great difficulties operating in the context of Tunisia today. Clearly the country is not

ready for it: we were half way through the first session when the victims were already shouting at each other; everybody was angry with one another. There was not a context of reconciliation that could support the institution. Timing is absolutely crucial. You need to get the timing right, it must be in the air. Even though our commission was presided over by Desmond Tutu, who had great moral authority, he still would not have been able to handle the situation, had it not been for the presence in office of Nelson Mandela. We had a convergence of favourable factors, which were all present in that particular moment.

I would like to identify three traits of politics of reconciliation: first, the acknowledgment of interdependence between groups. The fact that we acknowledge that we share a country and that our interest and wellbeing are tied to each other; acknowledging that if you suffer, I suffer; if you prosper, I prosper, was the antithesis of apartheid, which instead wanted us divided. It is not a moral statement, but a statement of fact. Reconciliation does not start with moral appeal, but with acknowledging the facts as they are, acknowledging that we are interdependent. The second trait of the politics of reconciliation is to have conversations that are inclusive and comprehensive. By inclusive I mean that there is not a single group that is left out; everybody is around the table. By comprehensive I mean that there is not a single issue that is not on the table. We had an extremely large set of issues on the table. If you debate a transition you have to debate everything, from tourism to the Constitutional Court. Metaphorically speaking we had three boxes: the 'inbox', the box of agreements and that of disagreements. Every time we discussed an issue, we would take it out of the 'inbox' and put it into one of the other two boxes, and

whatever ended up in the box of disagreements would go straight back into the 'inbox'. We could not afford to give up talking. The third trait is that there needs to be a move towards practical, concrete justice for everybody in the country. People have to feel it, they have to see it, and they have to experience it. If these three traits are present, I think you have the politics of reconciliation. It was in that context that we had our TRC. These three criteria were all present in our transition.

I want to share with you my experience at the TRC using of the concept of fairness. I think there are two types of TRCs in the world: first, those that become a sign of the past, that get caught up in the history of the country; they reflect the divisions within the country, never find their way out and perish. But while the focus of the TRC is the past, its operations and ethos should be the future and to take the nation forward. Ours is a good example of one of those future-oriented TRCs. Why? Because apartheid was a racial system that imposed a racial hierarchy on society. In the TRC, the victims occupied centre stage. They were invited; they shared their stories every day for eighteen months. The perpetrators, who were once very powerful people, had to come hand in hand and ask for amnesty, and although they were not prosecuted this was in a way a reversal of the power structure. They appeared almost pathetic. The TRC showed the future, even while talking about the past. It modelled the future for us.

Going back to the concept of fairness, I believe there are two aspects that should be reflected in a TRC: substantive fairness - the content - and procedural fairness - the how. What would be substantively fair in Turkey is a matter of debate for Turkey. It

has to be a national conversation in which you decide what the mandate of a TRC must be. In our case we gave the commission a mandate with three tasks: the first was the restoration of civic and human dignity of victims. In other words, the dignity of people as citizens and the dignity of people as people. We did not ask the victims to forgive, we simply asked them to tell their stories, in exchange for which they would receive reparation. The second task of the commission was to administer amnesty. We did that through a mechanism that we had learned about from Latin America and that we had adapted for South Africa. Previously, amnesties were done by presidential decree, they were not individualised, and did not demand any transparency. It is what we called a 'blanket amnesty'. In South Africa we turned it around: a perpetrator of a gross human rights violation could receive amnesty only if that person came forward individually, claimed everything that he or she had done, and convinced the commission that those deeds were politically motivated. This means that that person had to be part of a political party and had to be executing the demands of that political party, and what he did had to be proportional to the aims of his political goals. Being guilty of perpetrating a massacre would not be deemed to be proportional to the political goal, for example the deal with the perpetrators was that we did not ask them to apologise or show remorse, because achieving that feeling would have been unrealistic. You cannot really expect hardened operatives to have a moral conversion and become angels overnight. What we asked them to do was to come forward and tell their stories, in order to make their contribution to our national heritage and memory; in exchange for that they would be granted amnesty. Thirdly, if the victims gave up their right to civil litigation, they would receive reparation. We provided for three kinds of reparation: economic,

symbolic, and social reparation. The first one consisted of six years of pension calculated on the minimum wage at the time in South Africa, which would have amounted to about \$21,000, a relatively modest amount. The symbolic reparation included measures such as changing street names to reflect liberation struggle heroes and erecting memorials in public squares in the communities. These measures accommodated the need of the victims to see themselves reflected in society. We risked a cultural genocide, having the culture of a whole group completely wiped out. 22 years ago Cape Town was a totally different place; it was a completely white city with only European street names and memorials, reflecting only the white history of the country. Lastly, the third community reparation, included the delivery of social services to the victims such as medical help, therapy, and trauma counselling. This was our mandate, and we thought it to be substantially fair. The fact that we did not prosecute the perpetrators raised a lot of criticism, and it was thus tested with the Constitutional Court, but we believed it was in the interest of the country not to prosecute them, in order not to cause instability.

In terms of procedural fairness, we tried to answer ten key questions:

- Who should appoint the commissioners, and how will they be selected? In South Africa it was a very long and difficult process, and in the end they were appointed by Nelson Mandela.
- Whose stories will be excluded, and which groups will not be reflected in the process? We had a very big blind spot because women were not fully included. When they talked, it was often to share the stories of men, so it was not really inclusive gender-wise. One group then boycotted the commission, the Zulu

party, and this noticeably affected the TRC. It needs to be a fully inclusive process.

- To whom will the commission account, and how? If the commission starts to work and to unveil stories, I can tell you for a fact that politicians will try to interfere with it. Both de Klerk and Mbeki asked to see Desmond Tutu at the time, but he refused. When the report came out they took it to court, but in the end Archbishop Tutu's refusal safeguarded the process.
- Will the commissioners be able to execute the task that they are given? To uncover the truth about gross human rights violations is a huge task. People need to be trained, they need to have a reasonable budget, and to have the power to search documents. If there is a hint of such a commission being established, immediately documents would start to be destroyed. When the TRC was set up here, the government hired certain furnaces to burn documents more quickly. In the final years of apartheid a common joke was that if you flew low enough over Pretoria you could hear the shredding machine working. Will the commission be powerful enough to uncover the truth?
- Will the commission be able to debate the topics honestly? To guarantee this in South Africa we had South Africans from all different social strata. They often disagreed, and had very heated debates. Sometimes they disagreed to such an extent that they had to go and solve the dispute in court. Courts had indeed a very important background role, guaranteeing the process.
- How will the commission keep the public briefed? Desmond Tutu had a particular policy: if anything went wrong in the commission – and a lot of things went wrong – he decided that he would immediately call a press conference. In this way he

would be able to set the tone of the discourse, rather than having information being leaked and having the media delivering a distorted version of the issue to the public. Generally I can say the commission was very transparent, and we had a good relationship with the media.

- How will the commission guarantee the punishment of all the perpetrators? One of the big weaknesses of global justice is that it only deals with the top perpetrators. We do not have an integrated system that looks at all the perpetrators, and even if in our case we tried to cover everyone, you cannot prosecute them all. You need different accountability measures; judicial punishment is only one way by which to punish perpetrators. There is need for alternative forms of punishment.
- How will the dignity of perpetrators and victims be guaranteed when coming to the commission? It is really important that people who suffered should not be re-traumatised; they should be treated with dignity and respect. Even the perpetrators.
- How will testimonies be vetted? Anyone could come forward and deliver a testimony, which could result in a political vendetta. There needed to be a vetting process. We demanded written testimonies beforehand, so that people could read it through and also to inform in advance people who would be implicated, in order to let them prepare their defence.
- How accessible will the commission be to the general public? In our case everything was conducted publicly and in a climate of absolute transparency. The sessions were televised and broadcast on the radio, so that the whole population could feel involved in the process.

These are just a few questions that I think are important in terms of the procedural fairness of a commission. I think the best TRCs still need to have these, even though maybe here in South Africa we did not necessarily successfully address all of them.

I just want to say that there's a lot of follow up work that needs to be done once the Commission is over, and it would be better to have a permanent statutory body that could monitor the implementation of the Commission's provisions. A major mistake we made was to give the task of delivering reparations to the Government, which had other priorities. As one minister put it, his priority was not the 22,000 victims of the TRC but the 22 million victims of apartheid. Thus, the reparation programme faltered and was very badly implemented in South Africa. You should have a semi-independent body that can monitor the implementation of the reparations. And you should also follow up with the prosecution of people who did not participate in the process; even though we said we would prosecute them all, we never managed to, apart from one or two cases, and that is not good enough at all in terms of what we had originally set the commission up to do. Thank you.



*DPI Deputy Director Catriona Vine and IJR
Executive Director Fanie Du Toit*

Mohammed Bhabha opens the floor for questions.

Participant: I have 3 brief questions. I do not know how familiar you are with the case of Spain. In Turkey we always make a distinction between the case of Spain and that of South Africa, as we heard from abroad that while South Africa chose not to forget, Spain chose not to remember. Given this comparison, how valid is the experience of the TRC? Do you think reconciliation in South Africa would have been possible without it? Secondly, in terms of the findings, to what extent are they legally binding or morally binding? Is there a legal basis provided for their enforcement or is it just the moral, psychological, and political climate that implements them? Lastly, you mentioned the chairing of the TRC by Archbishop Tutu was crucial, though clearly it is not easy to find a person of his calibre and standing. Would there be something missing, if we could not have a person of that standing chairing a commission?

Fanie Du Toit: Indeed, Spain is often held up as an example. Of course the verdict remains open, and to what extent Spain is really able to move on is hard to determine. We in South Africa felt we could not do that for a number of reasons. One is that the apartheid regime pretended to be innocent and portrayed itself as the bearer of civilisation. It was important to show that instead it had a very nasty underbelly and it was actually the opposite of civilisation, which was pretty shocking, especially for white South Africans. We had a survey where we asked the view of the whole nation, and the commission was rated very positively, though the black population ranked it much higher than the white population. The black population supported it wholeheartedly, because there was

a strong need from the victims' side to know what had happened, and how. People needed closure. To give you an example of how successful the commission was, one of the questions we asked people in the survey was whether they considered apartheid to be a crime against humanity. In 2001 over 78 per cent of white South Africans answered positively, and I'm quite certain the figure before the commission would have been much lower. Being able to agree, at least on one thing, is an important element in a process towards reconciliation. We are still conducting that survey every year, and we call it 'the South African Reconciliation Barometer'. Concerning your second question, it was really a mix of these factors. The commission handed over 200 names that they recommended should be prosecuted as they had come out through the investigations and they had not come to the commission to obtain amnesty. There were over 7,000 applications for amnesty that came from all sides of the conflict, but only about 1,000 people obtained it. The applicants were often just common law prisoners trying to get a chance. We had many people from the police coming forward, but very few from the army. The network of implication that was so successful within the police did not work with the army, as somehow the army managed to draw together and avoid the commission. Moreover, many crimes happened outside of the country, where courts had no jurisdiction. With regards to your last question, I believe you need a strong institution. For us, the commission set the precedent for all future commissions. For example, every commission here is now forced to be opened to the media as the TRC was. They are all open, now. One cannot deny that the charisma of Desmond Tutu had a huge impact. People trusted him as priest, and he was fiercely independent. I admit sometimes his Christian convictions would make him diverge a

little from the mandate on matters of forgiveness: as I told you we never asked our victims to forgive the perpetrators, it was not part of our mandate, though that was a very important element for Archbishop Tutu, who sometimes would literally beg them to forgive. There were definitely tensions because of this, but on balance we would do it again the same way.

Mohammed Bhabha: We had some instances of forgiveness. Our then Minister of Justice, Dullah Omar, together with his wife publicly forgave those who had tried to assassinate him. That was a very important public statement.

Participant: You said that the courts played a very important role, but were the courts still the heritage of the past regime, or were they new courts created after the fall of the apartheid?

Fanie du Toit: The courts were compromised. Apartheid was a very law abiding system, there was a law for everything, even to regulate with whom you could get married or have sexual intercourse with. Though the judges could claim not to be responsible for it, as they just had to apply the laws; generally speaking they were not very corrupt, they just had the wrong laws. Anyway, in 1994 the new Constitutional Court was established, and it became the ultimate court as its members were all fresh faces. That provided a safeguard: for example, when the victims did not accept the amnesty granted to perpetrators, they would challenge them in court. The ruling for this was very eloquently written by a black judge, who explained that it is sometimes better to curtail the rights of a few individuals for the good of the society.

Participant: Was there a deadline? How long did that process take?

Fanie du Toit: The court case with the victims was settled before the commission began. But many of the amnesty cases were dragged on for five years after the commission was over. After the first report was published in 1998, they had to add two more volumes. In retrospect, I think maybe a little longer mandate would have been better, but as South Africans we were fatigued with the TRC. It was very emotional, even for white South Africans. They denied it at first, and some of the white newspapers were even very negative about it, calling the Archbishop an ‘angel of revenge’. But eventually they could not ignore it anymore and the survey I mentioned earlier, the South African Reconciliation Barometer, shows how the perceptions shifted as the TRC was progressing.

Participant: You talked about three different boxes, what about the box of issues that could never be agreed on? What happened to those issues? I also have a second question, about the gender imbalance you mentioned, which was impeding the process. How important would have it been to get a gender balance in the commission? Did women establish an alternative organisation to solve this problem?

Fanie du Toit: First of all, the point of my digression about the three boxes was that the amount of issues that were put in the ‘inbox’ was really significant, since everybody could add anything to it. On a side note, you should bear in mind that I am not talking about the Commission here, but about the negotiation process. As soon as they initiated it, they knew they could not give up on it, they could not go back. Even if something had landed in the disagreement or in the agreement box, it could still go back into the inbox and be discussed again. They were temporary boxes. It was a way to show how the process, with its highs and lows, could never be stopped;

we never had the luxury to stop going on. Now concerning the gender issue, as I said we failed to properly represent women, as those few times they were called to share stories, it was generally to share the stories of men, and hardly their own. They will be facing a similar problem in Tunisia, for example where the victims were often women who were victimised to harm other men, for example in keeping with the idea that you humiliate the men by humiliating the women. Now it is really important that the commission should focus not on the men, but on the women themselves. In Tunisia there is a need for an equal commission, where women can talk as human beings, which is also what we needed here in South Africa. In some cases we had commissions for women, but it was too little too late. We failed to acknowledge that apartheid was as much a gender problem as a race problem; it was not just white people, it was white men taking charge. Chauvinism has taken over society. There is a very high rape rate in South Africa today, and we are conscious that most of our violent episodes are still against women. We missed an opportunity to discuss that problem. We now have a permanent gender commission, and every party in government must have a 50 per cent share of women.

Participant: Did the commission meet any resistance as it was working? Were there protests against it? And to what extent do you think it succeeded in achieving its goals?

Fanie du Toit: Yes there were protests, but really nothing significant because the commission itself was so strong and famous that it was difficult to go against it at the time. Most South Africans supported it in our surveys, and said that it helped us avoid a civil war by giving public acknowledgment to people who were heavily brutalised. I realise today though, that a lot still needs to be done in

terms of reconciliation. We probably moved from point A to point B, but we thought we would be at point C by now and we are very disappointed about not being there yet.

Mohammed Bhabha: Try to think about what the mood was at that time: there was a huge outpouring of emotions. When you get exposure to it all the time, even those who did not want to acknowledge it were overwhelmed. That was also thanks to the media, which managed to capture the soul of the nation. Unfortunately there is not a real scale by which to measure the extent to which having a TRC helped, but if there is anything that is measurable it is the fact that it avoided revenge, and prevented us from sinking into a spiral of violence. We did not have another blood bath after the transition, and that is also thanks to the work of the Commission.

Participant: First of all I would like to make a comment: I do not think Spain could be successfully called upon as an example that forgetting is a good idea. Moreover in 2007 they issued a law called the Historical Memory Law, which acknowledges the victims on both sides, condemns the Franco regime, and gives rights to its victims and their descendants. I also have a question in mind, and that is: what is the role played by cultural and religious factors? For example, did religious groups approach the commission?

Fanie du Toit: They did play an important role, also because Desmond Tutu was able to use Christian ideas, and the concept of Ubuntu⁵, based on human interdependence and

⁵ The Ubuntu philosophy is based in the affirmation of one's humanity through the recognition of an 'other', or as Liberian peace activist Leymah Gbowee defines it 'I am what I am because of who we all are.'

interconnectedness. But I do not think they were crucial; I think the commission could have worked without them. For sure they helped, and it was clever of Tutu to use them, but I would not say they were essential. All faiths have notions of confession, and it is just a matter of finding the right language. In our case the link with Christianity was important, but the same thing could have worked in another cultural context. Other groups did come to the commission and participate; they were welcomed very warmly, not only the Muslim community, but also many others. There is no doubt, though, that the commission was very much Christian.

Participant: How did the commission select stories to be broadcast?

Fanie du Toit: They were all broadcasted live. We had 18 months of hearings.

Participant: What was the role of the Parliament during this TRC? Did they support your work?

Fanie du Toit: The Parliament played an extremely important role. The statute that enacted the TRC was actually debated in Parliament, it was not a presidential decree. It was important to have it established through a democratic process, as this gave the Commission legitimacy and credibility.

Participant: Was the TRC part of the political compromise that resulted from the negotiations?

Fanie du Toit: What was part of the compromise was amnesty. It was the post-amble to our Constitution; it is the equivalent of

our peace agreement. It was quite clear that the amnesty provision was part of the last minute compromise, the last thing left in the 'inbox'. And then the human rights community started to talk about it, which was very important for keeping the process honest. If you leave amnesty to politicians it automatically becomes a blanket amnesty.

Kerim Yildiz: You mentioned the importance of timing, but how can we know when it is the right moment to embark on a negotiation process or on a TRC?

Fanie du Toit: The timing should be determined from the inside. We can only give you warning on when it should not be done. A criterion is the presence of democratic institutions, and of free and fair media: these are essential aspects that support a TRC, otherwise it quickly becomes discredited. It becomes part of the problem rather than the solution.

Participant: You said that the TRC should not reflect society but should instead guide it. But if its composition does not reflect society, could not that create some kind of resentment? Could not it be a reason for competition between the parties, especially between governing parties?

Fanie du Toit: Yes it is possible. Keep in mind that of course it should reflect the country's demography, but the leaders should be the kind of people you would want to see in the future as your leaders. You need to have people that have credibility. In terms of the political process, I explained how the TRC gained its independence. The TRC resisted political influence. The message given was that apartheid was wrong and that the struggle against

it was a just war. So in a way it supported the ANC, but it also said that human rights violations are to be condemned even in a just war, that they are always wrong. I believe a very important failing of the TRC was that it failed to get a formal apology from de Klerk. It is true that an apology needs to be made freely, it must be genuine, but while de Klerk did acknowledge that bad things had happened, he never even took responsibility for them. That is not good enough.

Mohammed Bhabha: It was not only de Klerk, none of them apologised. My biggest disappointment is that the people that were involved in the apartheid, people that made money from it, never came up to apologise. But now I want to thank Dr. de Toit for coming today, and for giving us this extremely interesting presentation. If you would like to know more about his work and that of the Institute for Justice and Reconciliation you can find it all on the institute's website [www.ijr.org.za]. Thank you

Wednesday 1st May – Dinner Meeting with Laurie Nathal, Baia Restaurant, Cape Town

With

Laurie Nathan,⁶ Director of the Centre for Mediation in Africa at the University of Pretoria

Venue: Baia Restaurant, Cape Town



Professor Laurie Nathan addressing the delegation at BAIA Restaurant

Mohammed Bhabha: Good evening everybody. We have an esteemed guest tonight, who goes by the name of Professor Laurie Nathan. He is attached to the University of Pretoria, but more importantly he is part of an institution called the Centre for Mediation, which is attached to the African Union and the United Nations and is presently doing work in a number of areas, such as Darfur and South Sudan. But apart from that, what is really important is Professor Nathan's contribution towards the establishment of the first democratic elections in South Africa. He

⁶ Prof. Nathan is the Director of the Centre for Mediation at the University of Pretoria and Visiting Professor at Cranfield University in the UK. He is a member of the United Nations Mediation Roster and a member of the United Nations Roster of Security Sector Reform Experts. Laurie Nathan is also a visiting fellow at the University of Cape Town and the London School of Economics. He has served on the Carter Centre's International Council for Conflict Resolution, the African Union's mediation team for Darfur and the Ministerial Review Commission on Intelligence in South Africa.

was responsible for the formulation of the policies on security and defence in the new South Africa, and of course he did that under the auspices of our first minister of intelligence, Mr Ronnie Kasrils. Most importantly, the white paper on defence was formulated by Professor Nathan.

Laurie Nathan: Good evening everyone and welcome to Cape Town. It is a pleasure to have the opportunity to talk to you, I have been asked to talk about my personal involvement in South Africa's transition to democracy, and specifically to look at the question of disarmament, demobilisation and reintegration, as well as the context of our transition and what we might learn from that process. I was involved in the ANC before the unbanning, as an anti-apartheid activist, and at that time, in the apartheid era, all white men in this country had to serve compulsorily in the defence force. Some other comrades and I refused to serve, on the grounds that we were opposed to serving in the apartheid army, and when the ANC was unbanned in 1990, a small number of us got together to try and develop new security and defence policies for what could one day be a democratic country. Our big concern was that the expertise on security and defence lay almost exclusively on the side of the apartheid government, and our fear was that we could have a successful transition to democracy but still have reactionary security and defence policies, because all the experts were on the side of the apartheid regime. Thus, a small number of ANC members interested in police and intelligence and in defence, got together to develop policies for the ANC. And we were successful in shaping ANC policies, in shaping the security provisions in our Constitution, in shaping white papers on intelligence, policing and defence; we were also successful at looking at a very difficult and

politically sensitive issue, which was integration. Since the ANC had an armed wing, known as Umkhonto we Sizwe - that in English translates as 'Spear of the Nation' - the question of integration and the related one of demobilisation were very sensitive in our situation as they are in all transitions from war or rebellion to situations of peace and stability. Rebels derive their strength and their legitimacy in large measure from their arms. So in South Africa, as in other countries, rebels felt particularly vulnerable when they were asked to lay down their weapons; they feared that they might be attacked by government forces. And the government on its side felt it was surrendering a measure of sovereignty, if the ANC agreed to some form of disarmament or disengagement. This is always a very difficult and sensitive process. Why did it succeed in our case? It succeeded firstly because the leadership of both sides, the apartheid government and the ANC, was serious about ending the war. They were not playing games.

This was not a bluff. They were not pretending to negotiate, nor were they negotiating with one foot in the water. Second, they gave strong and clear instructions to all of the negotiators to stop fighting, even though they knew that they hated each other, which was inevitable after decades of war. They wanted to get a deal; a deal that was favourable to their respective sides, but nonetheless a deal. I was one of the ANC negotiators on civil-military relations, and I was looking at the new Ministry of Defence, Parliamentary Defence Committee, and other institutions of the like. Negotiating with our enemy, our former enemy, was extremely painful; of course the feelings were mutual, and they were personal, not abstract or philosophical. We hated each other. But we were clear on both sides that we all wanted to get a deal. And so we were

negotiating in earnest. The third reason behind our success is that we did not rush the process. We had been at war in this country for decades; we were not going to end this thing quickly. It was just too difficult, both politically and emotionally. So our negotiations took as long as four years, from the unbanning of the ANC in 1990 to the point when we had our first democratic election in 1994. We never rushed it, we paid attention to detail, and we moved logically and systematically through a process that begins at the highest, most abstract level – what is the vision of the future, what are the values to which you aspire – and to move from there to key principles, and from principles to policy, and from policy to strategy, programmes, projects, and laws. So we followed a logical process from the abstract aspiration to the concrete mechanisms and procedures, paying attention throughout to detail and to the necessity for compromise.

This is a further reason for our success in relation to the transition in general, and disarmament in particular. When you move from rebellion or war to peace, all sides have to compromise. I say this with a particular passion because I am a mediator, and negotiating parties very often do not want to compromise: they want to win it all and they are deeply reluctant to compromise on issues that are dear to them, and to compromise with the hated enemy that they have been trying to kill, and that has been trying to kill them. But you cannot succeed in any negotiation without being willing to compromise. Very often, since negotiations are so difficult, they require a third party mediator. Sometimes the mediators come from outside the country, but in our case the mediators were mainly domestic, from the church and from the business community. In relation to integration, demobilisation

and disarmament, though, we had an external actor: the British government, and more specifically the British Army, which was invited by our new democratically elected government to oversee the process of integration and demobilisation and to act as a referee. In this way, if there were disputes between the ANC and the apartheid regime in relation to integration and demobilisation, the British Military Advisory Team, stationed in the Ministry of Defence, would be the body responsible for adjudicating the dispute. This is an example of what in the academic literature we call CSBM, Confidence and Security Building Measures, which differ from country to country. So in any particular country, when one is dealing with sensitive security and defence issues, it helps to have confidence building measures, especially if you know that both sides are nervous about taking risks, and that they are both worried about the consequences of a bad decision that could be taken advantage of by their opponents.

Your confidence building measures could be domestic or external referees and mediators. In addition, you need to have very clear agreements and to have dispute resolution mechanisms in your disarmament and demobilisation process, because the parties are inevitably going to disagree on the interpretation of their agreements. In our case, we agreed on five steps for integration, demobilisation, disarmament, but you should know that when it comes to implementing those steps things can go wrong. And so you need to have a mechanism to safeguard the process, for example a committee of tribe leaders from both sides, responsible for solving disputes, and above them an appeal or adjudication body. Personally, I think that the process is more important than the actual mechanisms. I say that because I have been involved

in demobilisation and disarmament in this country, in Sudan and in other countries; and everywhere the security situation is different, rebels and government forces are different, and their position is geographically different. Therefore, you need a different set of mechanisms for demobilisation and disarmament. But the process needs to be a sound process, regardless of the details. You are negotiating seriously; you are negotiating with the knowledge and support of your own constituencies; paying attention to detail, looking for confidence and security building mechanisms, and you need transparency. Let me say something about transparency, because this is another reason for the success of South Africa's transition. It was not secret. It is common that sometimes negotiations begin in a secret or discrete fashion. But there is a point when the negotiations need to be opened up, so that the public knows what is going on. We must have confidence that our leaders are making choices that we would support.

Here we had a very slow, delicate, confidential process of talks behind the scenes between the ANC and the apartheid government before the ANC was unbanned. After that, the process was open and transparent: our leaders were reporting back to members of the parties; the media were reporting on the negotiations through NGOs, journalists, and other civil society organisations, through universities and think tanks. We were not only listening to what our leaders were negotiating, we were talking to them. We were talking to them as party members, we were talking to them as citizens, and we were talking to them as academics. We were talking to them as intellectuals, doing research and feeding into the process of negotiation on military security, intelligence, and every other topic that was the subject of negotiations. The second

last lesson is that, although we took advice from other countries, we ended up making decisions ourselves that we thought were appropriate for our situation. This is very important because sometimes in countries coming out of war, especially where they are poor and underdeveloped countries, it is the mediators, the donors, or the UN Security Council that make decisions on what the negotiated settlement should look like. So there is no national or popular ownership on the peace agreement. In South Africa we did it our way. We were not indebted to the World Bank, we were not indebted to the International Monetary Fund, and there was nobody outside the country that could tell us how to do demobilisation. We designed it in a fashion that we thought to be appropriate to our situation. And the big advantage of that is that our solutions are South African, they are not French or German or English solutions, and even if they are not perfect we have a sense of pride in them. There is a national ownership that is broad, not confined to the elite and the political leadership, and it gives our negotiated settlement stability and legitimacy. The last lesson from our settlement in general, and specifically in relation to demobilisation, was that we studied other situations very closely.

Coming out of apartheid, many of us felt ignorant. I was given the task of writing a first democratic white paper on defence, and I felt ignorant. I had looked at the apartheid era as isolated from international experience and context. So other researchers working in this area and I started looking at how integration had happened in other countries, in Guatemala and El Salvador, what mistakes they had made, and what lessons we could learn from their experience. We did not want to take the Guatemalan experience or its mechanisms and make them ours. We were going to design

our own mechanisms. But we thought we could learn an enormous amount from the experiences of other transitions that were roughly comparable with ours. So let me end with this; I am happy to take your comments and questions now and over the course of the meal. Thank you.

DPI Director Kerim Yildiz opens the floor for questions



Ahmet Insel, Sezgin Tanrıkulu, and Ali Bayramoğlu

Participant: How did you use the arms and reintegrate the members of the ANC Army? Did you have a law for it?

Laurie Nathan: The South African disarmament situation was quite unlike that of other countries. The ANC Army was not particularly strong or large from a military perspective. It was very significant politically, and it gave confidence in the struggle against the apartheid regime, but it was not large and it did not have large armaments, nor was it holding territories neither inside nor outside the country. In addition, the vast majority of ANC guerrilla fighters either saw themselves as politicians or activists first and foremost, and so they were soon moving into government and Parliament, or they saw themselves as soldiers who would enter the new defence

force. So we were concerned about integration more than we were concerned about disarmament. The government wanted the ANC to end the armed struggle before negotiations began, and the ANC agreed only to suspend the armed struggle. Our focus in the military arena was principally on how to integrate rather than how to keep apart, and the related political question for us was who would lead the new defence force, whether it would be the old apartheid officers or the newly appointed ANC officers. And here, as in all other areas, we compromised, and we compromised in order to keep both sides happy and both sides confident. Just to indicate how important this compromise was, let me say that in 1994 with the new democracy the Minister and Deputy Minister of Defence were members of the ANC, but the Chief and Deputy Chief of Defence Force were part of the apartheid regime; the Chair of the Defence Committee in Parliament was again a member of the ANC, and you can see this balancing that was going on. And this is completely different from the situation in neighbouring Namibia, where the liberation movement had a sizeable guerrilla force stationed outside the country.

Participant: At what moment did they lay down their arms, before or after the elections?

Laurie Nathan: The ANC formally suspended the armed struggle after the negotiations began, prior to the first democratic election in 1994. But you have to remember that it was not an organised guerrilla force, so the problem of confinement to an area, which is very often a key issue, as it was in Sudan, here was not an issue. Moreover, even though the ANC had weapons caches collections, these were not of a significant size. The government was willing to

trust the ANC to honour its commitment to suspend the armed struggle, and there were discussions at a high level, with respect to disclosure of the locations of the weapons caches. These talks were not secret, but their content was; we knew there were talks happening around weapons caches, but we were not exposed to all the details of that. But this is a very unusual situation for disarmament, because we never really had an organised rebel or guerrilla force.

Participant: Professor Nathan, I think you raised a lot of important questions for all the people here. I believe that listening to what you have said we can find many similarities between the ANC armed force and this stage of the transition, and to our current situation with the PKK. There are two questions in particular that I would like to ask you: the first one is how many guerrilla fighters did the ANC have? Secondly, when you spoke about the issue of mediation you said that while during the negotiations it was mainly domestic, when it came to demilitarisation you preferred to have a third party, the UK. Since we will be facing this issue in our case, I was wondering, is this very particular to the South African situation, or from it we can derive the general rule that it is extremely difficult for warring parties to reconcile without a third party?

Laurie Nathan: First thing, the ANC at that time said there were roughly 10,000 fighters. Many of us in the ANC thought that it was an exaggeration, as they wanted to communicate a greater military strength than they in fact had. In addition, that figure seems to be inflated because many people who were in the ANC army were not soldiers in any conventional sense, or even rebels that you would imagine with an AK47; they were activists. They

were involved not in major military attacks on government forces, but in discrete sabotage; there was not actual physical confrontation with our defence force, which makes our situation I think quite exceptional as far as civil wars and rebellions are concerned. The force of our rebellion never came from the ANC armed wing, it came from the people, mobilised and organised. It came from the communist party playing a critical vanguard intellectual role, and at the end of the day the ANC, which claimed to represent the majority of people, did represent the majority of people. It was the people mobilised against the State making large parts of the country ungovernable that brought the apartheid regime to the negotiating table; it was not the ANC Army. I have been involved in other negotiations around the issues of disarmament and demobilisation, and before one tries to do the design, it is necessary to look at the basic facts: what are your organised armed groups? Are there only the government and a rebel group, or are there several rebel movements? Are they informal groups or militias set up by the State? What are their size, armaments, and mobility?

What are their unity and cohesion, and is there a clear chain of command? Do they respect leadership and obey orders? What are their goals and aspirations? Do they want to continue fighting, do they want to end fighting and join a new defence force of the State, or are they looking to leave your territory? This is the information that you need in order to start planning for disarmament and demobilisation. With that information, what you would want to do as a mediator is bring the two parties together to help them state their position on what the end disposition should be. When they have an agreement on that, you will help them to define what are the steps, the procedures, the mechanisms and the confidence

building measures necessary to get there. At the end of the day, it works if we want it to work; if there is mischief, all kind of terrible things happen in the course of disarmament and demobilisation, so there is the need for confidence. Now, this leads me to your second question. Where there is not confidence, it helps to have a third party. I said that we used the British Army; that's been done in a number of other African countries, but most times it is the United Nations that is invited to act as a third party. Initially governments are resistant, because they see this as an infringement of sovereignty, but the logical response is that there cannot be any infringement of sovereignty if the UN is coming upon invitation from the government itself. As you invite a third party, you also specify its role. The UN is not defining its role in New York. In our case we decided what the British Army would do, and our Minister of Defence reviewed the mandate of the British Army, which changed with the changing of our situation and conditions.

Participant: Why the British Army?

Laurie Nathan: Who to invite was the subject of negotiations between the ANC and the government. Neither side wanted the Americans, because they seemed to be the imperialist power, and we did not want a European country where English was not the first language, since English was going to be our first language. The United Kingdom had a strong presence in the region, Southern Africa, so it seemed like a choice that both sides would be willing to deal with. And I would say as a mediator, in Turkey as in any other place, if there is an interest in a third party, the choice should be made by the parties themselves in negotiation with each other, be it a domestic or external mediator. It cannot be one side that decides

to have a third party. It needs to be both sides, they have to agree and then they have to decide who would be the most appropriate, whether a neighbouring country, the United Nations, or a regional body.

Participant: Or could it be a personality?

Laurie Nathan: Well, yes, but then the danger is that it comes out as a symbolic mediation. If you call the United Nations, they come in with the whole United Nations machinery. You get experts that have done it a hundred times; they have got the manual, they are professionals and they know what they are doing. So this is a big advantage. My choice would be the United Nations, for my country and for other countries, though it was not possible here because the United Nations had taken a strong stand against apartheid and had declared it a crime against humanity. So from the perspective of the apartheid regime the UN was not a palatable option.

Kerim Yildiz: Thank you Professor Nathan for meeting us tonight, and for giving this very interesting presentation.

Thursday 2nd May – Session 2: Meeting with Dave Stewart, Victoria and Alfred Hotel Boardroom, Cape Town

Presentation and Roundtable Discussion: Views from the National Party and Apartheid Government side on the Peace Process

With: David Stewart,⁷ Executive Director of the FW de Klerk Foundation

**Venue: The Forum, Victoria and Alfred Hotel Boardroom,
Cape Town**

Moderated by DPI Director Kerim Yildiz



Hatem Ete, Kerim Yildiz, Nazmi Gür and Ertuğrul Kürkçü with David Stewart, former Executive Deputy President to President FW de Klerk

⁷ Mr Stewart served as Head of the South African Communication Service from 1985 until 1992. During this period he was responsible for repositioning the SACS as provider of central communication services to the Government. In August 1992 he was appointed as Chief Government Spokesman within the Office of the President. Since his retirement in 1996, Mr Stewart has continued to work closely with former President FW de Klerk and been his principle speechwriter. Previous posts and achievements include: Head of the South African Communication Service (1985-1992); Director-General (Chief of Staff) and Secretary to the Cabinet (1992-1994); Executive Deputy President (1994-1996).

Kerim Yildiz: I am very honoured to have here Mr David Steward with us here today. Unfortunately, due to our postponement, former President FW de Klerk will not be able to join us today but he has kindly sent a personal message to you, which is on the document in front of you.⁸ I will not spend too many words on the introduction of Dave, I will just say that he was Chief of Staff of FW de Klerk during his office and he is our South African Jonathan Powell.

Dave Steward: Thank you, and welcome to Cape Town. It is raining today, but in Cape Town you do not have to wait a few hours for the weather to change. We have the same situation in politics, you never know when the weather will change. In 1985 no one would have believed that the Soviet empire would collapse. Similarly, in 1985 in this country no one would have believed that there would be a transition. I was FW de Klerk's Chief of Staff when he was President. Before that, I was a diplomat and in the early 80s I was South Africa's ambassador to the UN. I was very young, and I was stupid enough to take the job, because we were the most despised country in the whole world. To my surprise, then, I was appointed as the head of our internal communication agency. Finally, Mr de Klerk invited me to become his Chief of Staff and we worked together towards the adoption of our interim Constitution and then on the organisation of our first democratic elections. You all received a copy of Mr de Klerk's personal message and a statement, the core of which is really that one of the dominant realities of the new millennium would be the accommodation of multiculturalism. The day of homogeneous, single-language states is gone and one of the greatest challenges will be for countries to see how people with different cultures and languages would be able to live together within the same society. When we introduced

⁸ See annex for Mr de Klerk's statement.

our new society in 1994, FW de Klerk became one of two deputy presidents and I stayed with him as Chief of Staff until he left the office in 1996. After he left politics I left our public service. The first thing we did in 1998 was to write his autobiography and then we established the FW de Klerk foundation, which is dedicated mainly to defending the Constitution. It is a very good Constitution, which creates limitations to what the government can do and creates rights for everyone. You will be interested in the mechanics that led to the change, and they were rather complex. At the end of the 1970s, the leaders of the National Party realised that its position was untenable. They realised that the previous policies were unscrambling the South African omelette and that there had to be reform. And so they did, they set off a series of reforms. Nothing is so dangerous as a person that wants reform.

Once you open the gates of change, it is difficult to close them; revolutions do not take place in situations of repression, but in situations of reform. We found ourselves riding a tiger and we had three main concerns: first, the Afrikaners did not regard themselves as a minority, but as a Nation. They had a language, they had been in the country for almost 200 years, and their main interest was self-determination. After the British arrived, the Afrikaners left and went into the interior where they established two republics; twice, they had to defend their independence against the British. The second Anglo-Boer war was the biggest war Britain fought between the Napoleonic War and World War I. On top of this, the British established concentration camps, and we emerged into the 20th century with a great deal of bitterness; the Afrikaners were thus intent on establishing their right to rule themselves. The real question then was how do you get off the tiger and maintain the

right to self-determination? In the rest of Africa it was clear that the independence process had not led to universal democracies. There had been about 20 coups d'état in Africa, so white South Africans were worried this would happen here too, if they dismantled the tiger. The South African Communist Party believed in a two-phase resolution: the first one was the national liberation process under the vanguard of the national liberation movement; then the party would become the vanguard and establish the State. Most of the members of the ANC were also members of the Communist Party. The USSR had a policy of expansion in Africa and for us the idea to get off the tiger and open the way to the Soviets was a real concern. The reforms had raised expectations; there was a revolutionary climate; we were more and more isolated internationally. There were a number of factors that made it possible for us to do what we did: first of all, by 1987-1988 all of the parties involved had reached the conclusion that there could not be an armed solution; they could neither have a revolution nor could we have the government stay in power by force. All parties agreed that there had to be negotiations.

Secondly, in 1988 we implemented the UN plan for Namibian independence, which involved negotiation with our enemies and was successful in helping Namibia move towards independence. For South Africa this was a very important training exercise, which showed that results could actually be achieved. Thirdly, during the 80s there had been significant socio-economic changes in the country, and in effect most of history is driven by changing economic relationships leading to changing social relationships leading to changing Constitutional relationships. In South Africa there were dramatic economic changes between the 70s and the 80s. Because of the rapid economic growth, the situation changed

pretty rapidly up until 1994. These changing forces led to changing relationships. More and more black South Africans came into the economy at higher and higher levels. There were huge changes in education, and separation would not exist between people with the same degree of education, and while in 1980 the number of black people finishing school was less than 30,000, by 1994 they were 410,000. These were changing relationships that put huge pressure on the existing structure. When the National Party came into power, it was a party of blue collar workers and farmers, with limited perspective. By the 1980s, a big portion of the Afrikaner population had moved into the middle class, and they were increasingly uncomfortable with the idea of apartheid, so there was pressure for change from both communities. The last factor was the collapse of the Soviet Union, symbolised by the fall of the Berlin wall in November. Circumstances wanted that de Klerk became the leader of the National Party in 1989, after the resignation of P.W. Botha. Personalities play a very important role, too, in the unfolding of history; Botha would have never been able to lead the process and dismantle the tiger. de Klerk's great contribution was that he realised that the moment for change had arrived, and that it would never again be this favourable for negotiations as it was at the beginning of the 90s, and that the longer the National Party waited for negotiations, the more the balance of forces would shift against it.

One of the key factors in negotiations is being able to seize the moment, the timing must be right. He did realise that if you wish to make a major breakthrough in the direction of transformation rather than reform, you must not do it piecemeal, or it will look like you are making concessions under pressure. So he looked at the

requirements that would be needed to start the settlement and put everything on the table at once, taking everybody by surprise. In the subsequent very tumultuous period of negotiations, the ANC had to negotiate in a radically different framework from that of the early 1980s: the URSS was no longer there, the South African Communist Party was in disarray, the only show in town was the Washington consensus and it was a climate like this that led the party to make concessions that were essential in order to reach an agreement. There is no way that this could have been done without suffering and pain; all parties have to make painful concessions. And there is no way that you could have successful negotiations unless all the parties that can affect the outcome are present at the negotiations. There is no way that you can do it without taking risks. You have to take decisions that are very dangerous: to make an example, in 1992 it looked like de Klerk was losing support, so he called a referendum to check if people still supported his policies, and he won by 70 per cent.

When you enter a process which is frightening, you realise that the only way you can get to the sea is through rough rapids, and that once you open the process of historic change, you are no longer in control of the process. We managed to go through that process; we went through the rapids of change and we emerged in 1994. Since then, we have made a lot of progress. We have had economic growth every year, except in 2009; we have built 3 million houses for the poorest people in the country; we have developed our industry and are now one of the major exporters. Tourism is growing; South Africa is well positioned in the world economy. We still have huge problems like education, poverty, and inequality, but unlike in 1995, when it seemed impossible, these are problems that now can be resolved.

Kerim Yildiz: Thank you very much Mr Steward for this very interesting presentation.



Kerim Yildiz and Dave Steward during the roundtable meeting

Kerim Yildiz opens the floor for questions.

Participant: Could you talk a little bit more about your time in communications? Were you in communications at the time of change, or was it prior to that?

Dave Steward: In 1986 I was asked by the government to establish an internal communication agency, which is a very dangerous thing. We had a Minister of information, and as soon as you stop communicating on behalf of your colleagues, if you are a Minister, you are dead. I went around the world and looked at different models, and the one I thought was most effective was the British model of Central Office of Information, where you have an organisation that provides communication, advice and assistance, and that is what we did, and it worked quite well. The challenge was to bring a modern information culture into an

environment that was essentially anti-media. P.W. Botha regarded the media as the main enemy, and you cannot communicate in that environment. We wanted to create professional communication capability that would bring South Africa in the 20th century in terms of communication sophistication, and I think we did that. This was evident, for example, in the critical moment of the release of Nelson Mandela. On February 2, 1990 we had more media attention in South Africa that we had ever had in history; we had a number of American networks broadcasting the evening news from Cape Town. All of the media personalities were here, but not to listen to de Klerk; they were here because they were expecting the imminent release of Mandela. The secret of success, then, was first of all not to create excessive expectations before the event, but then to exceed the expectations. So we did not have to release Mandela immediately, or the media would have gone away and no one would have been interested in our message. So we waited a week, during which there was nothing they could report on except our side of the story. It worked very effectively.

Participant: As the non-white population was in a minority, it ran the risk of losing the power during the process. How did the elites manage to convince the population about this, and what are the main factors that led to this resolution? Secondly, were there measures implemented to force people out of power? And how many white people supported this process?

Dave Steward: Well, there were a few factors. The first one was the lack of any alternative: most white South Africans were sophisticated people who realised apartheid was morally unjust. There had to be a solution, and there was no way this could be easy.

Participant: But why then? Why not before?

Dave Steward: Because the balance of power before that moment was so in favour of the whites that they did not have to consider this. Going back to the factors that convinced them, the whites believed that if we could negotiate a strong enough Constitution, it would guarantee the rights of everyone. They also realised, as did the government, that there was a symbiotic relation between the various communities. The ANC would not have been able to govern without the support of minorities. In fact it is virtually impossible for a modern state to rule a multicultural society without substantial support from the minorities, it cannot be done anymore. It could be done 100 years ago, but it is increasingly difficult to do that now. Another factor was that the whites retained a considerable economic power. All of this, then, was taking place within an international framework, where if government stepped out of line the market would punish them severely. Because of all of these factors the prospects looked reasonably good. There was another factor too, the role of Nelson Mandela, who went out of his way to reassure minorities by his actions and symbolism and managed to win the confidence of many white South Africans. It is quite true that there was a group among the whites that was strongly opposed to any change, but they were never more than 30 per cent and they were generally the old, white working class groups, small farmers, less sophisticated people and they are still strongly opposed to everything that has happened; we get a lot of hate mail from them. But at the end of the day, one of the great ironies is that it is the white community that has benefited the most economically from the new South Africa, mostly because of the incorrect decisions taken by the ANC government. The

government decided to replace white civil servants with black civil servants, but the white civil servants got relatively good packages; they did not go into retirement but started businesses instead; they made much more money than they would have ever made had they stayed in the public service. Also, the manner in which the ANC government managed education was so catastrophic that the pool of skills remained more or less in the hands of the minorities, which meant that whatever else the government wanted to do, it could not do it without skilled people. So now, 19 years after our transition, if you ask most South Africans they will say it has worked well. It has worked well for both whites, and, the black elites and middle class, which is now much bigger than the white middle class, though it has not worked at all for the bottom 40 per cent of the population, which is a major problem.

Participant: I can understand the examination of the elites, but what was the behaviour of the masses, did they stand against it or did they support the process?

Dave Steward: I think it was revealed in the referendum of 1992, when 65.9 per cent of whites, despite the violence that was taking place in the country at the time, voted to support de Klerk because they realised there was no alternative, they did not want to go back to the past, they wanted a Constitutional deal with our fellow South Africans.

Participant: How could the Afrikaners justify their political position except to defend their privileges? Did they talk about their nation, being the founders of South Africa independence, what were their arguments?

Participant: As has been mentioned that the collapse of the Soviet Union had an effect on the start of the process. Compared to other factors, how important would you consider this to be in the overall success of the negotiations? Also, how important was the role played by leaders? I also would like to ask you how important was the role of women in the process? Did you have any initiatives organised by women?

Dave Steward: Firstly, the role of leaders was critically important. The fact is that if we did not have the right leaders in place, it would have been very difficult for us to move ahead. But we were very fortunate, because we had, at the right time, leaders with a vision and leaders who were able to communicate effectively. Secondly, as far as the percentages are concerned, the collapse of the USSR was critically important but it was perhaps more important with regards to the timing, rather than to the final result. Without the collapse of the Soviet Union, the process might have taken much longer. Also, if the Namibian peace process had not worked, it would have made it much more difficult for us to do in South Africa what we did in 1990, so history was moving towards an agreement, which was greatly facilitated by these historical events and by the role of specific individuals. Concerning your third question, there were some significant women players. Perhaps one of the most significant was Helen Suzman, a lone liberal Member of Parliament who for many years, in a white dominated Parliament, stood up and articulated the need for change, and represented the concerns and interests of those who were not represented in Parliament. Within the ANC there were some formidable women, including Winnie Mandela, but overall it was primarily a male driven issue. The ANC today gives us a great deal of lip service to gender equality, and we

now have a higher percentage of women in the government and the Parliament than most countries, but this is not reflected in the way women are treated in the country. So we have the theory of gender equality, but we are still lacking the practice.

Participant: What was the effect of the solution on the issue of ownership? Did it ensure shared ownership of the country?

Dave Steward: Land ownership remains a very sensitive issue in South Africa, but our Constitution made provisions for this. In one of the articles of the Constitution that was most closely negotiated it is said that nobody may be deprived of property by arbitrary action, but the state may expropriate property for land reform, but any expropriated property must result in a compensation determined by a court, according to various categories, in attempt to be an equitable process. In practice white South Africans continue to own by far the largest part of agricultural land, and there is a huge pressure for change, but the organisation of white farmers is very happy to work with the government on land reform. The problem is that the average age of white farmers is over 60 and the number of farms that exists in the country has diminished because of economic recession. Small farms are no longer viable. Many farmers are quite happy to give up farming, but we need to find a way to let them quit, while continuing to produce food. We believe that it is possible, since every year 5 per cent of agricultural land comes on to the market anyway. We basically need to set up a balanced process that will bring black South Africans on to the farming market, but with the adequate support, as farming requires a lot of capital and expertise. So far the reform has failed; the land transferred to black South Africans has not produced.

Participant: Yesterday we heard two assessments on former President FW de Klerk: one is that he did not represent a position of reconciliation, but rather a position of coexistence, which is not the same; the other is that he made an apology, but for an apology to be as such it has to be genuine and should come from the heart, while his one was not a heartfelt apology. What is your response to these two assessments?

Dave Steward: Well, words are easy, everybody can apologise. But the best apology is to remove the injustice, and that is what de Klerk did. The apology was repeated and sincere. He said that on behalf of himself and of his government he apologised to the population that had been deprived. It is difficult to see what more he could have said to convey this genuine feeling, but the real test at the end of the day is not constituted by words but by actions.

Participant: How important were the embargo and the Free Mandela campaign?

Dave Steward: The response to sanctions was actually to strengthen the support for the government. There were also unintended consequences: since there was the threat to enforce an oil embargo, we bought a great amount of very cheap oil and kept it in the mines; when the prices went up we then sold it with great profits. Sanctions cost us 1.5 per cent points in economic growth, and this is what led us to develop the fifth or sixth largest arm industry in the world. In our experience, the main factor that helps changing a society is not isolation, but exposure of leadership elites to international influence. I think that the fact that we started to show *The Cosby Show* on our televisions probably did more to change

racial attitudes among the whites.

Participant: In what ratio did the ANC use armed force, and how did the South African government approach this? I also have another question: after 20 years, are you still attracting any rage from the side of the black population or is this rage completely extinguished?

Dave Steward: The ANC has never even posed a minor threat, and they even recognise it. What caused problems was the internal unrest, which was often spontaneous and happened without the knowledge of the ANC leadership. At the beginning of the 80s we realised that there could be no military solution. As far as rage and anger are concerned, as strange as it might seem, relationships have never been bitter, they have been fair enough. There is not a great deal of rage, a lot of black South Africans now want to promote equality by redistributing wealth, but I do not think there is bitterness. It could potentially become a major problem, but not for now.

Participant: Given the proximity between South Africa and Zimbabwe, why did things unfold as they did here in South Africa while in Zimbabwe they did not, with Robert Mugabe becoming a dictator instead?

Dave Steward: Well, I believe that happened mainly for two reasons: one is that Mugabe did not settle at the right time. Had he done it in the 60s at the tiger talks, he would have been able to negotiate a much better Constitution. The other one is that Zimbabwe is a much less developed country than South Africa, and thus many of the factors that hold us together economically

did not necessarily function in Zimbabwe.

Kerim Yildiz: Thank you very much for finding the time to have this discussion with us.

Thursday 2nd May – Tour of the Parliament of the Republic of South Africa, Cape Town

The delegation received a private tour of the South African Parliament.



The delegation in front of the National Council of Provinces, Cape Town

The South African Parliament sits in Cape Town. It is composed of two chambers: the 400-member National Assembly is the lower house and seats are allocated using a proportional representation system with closed lists, whilst the 90-member National Council of Provinces forms the upper house and is composed of delegations from the provincial governments. The Parliament buildings, completed in 1885, also house the Library of Parliament with its central dome and Corinthian porticos and pavilions. The City of Cape Town, though not the national capital city, is the seat of Parliament making it the legislative capital of South Africa.



Members of the delegation visiting the South African Parliament

Thursday 2nd May – Session 3: Meeting with Nomaindia Mfeketo

Presentation and Roundtable Discussion: The role and function of the South African Parliament

**With
Nomaindia Mfeketo, ⁹ Deputy Speaker of the South African
Parliament**

Venue: South African Parliament, Cape Town

Moderated by Kerim Yildiz

⁹ Nomaindia Mfeketo is the current Deputy Speaker of the National Assembly of South Africa. She was the mayor of Cape Town in South Africa from 1998 to 2000 and again from 2002 to 2006. Prior to entering politics Mfeketo worked for a number of non-governmental organisations. In 1993, she became involved in negotiations to combine state and non-state activities in preparation for South Africa's transition to a multiracial democracy. Following Mfeketo's work with the Development Action Group she was elected Chairperson of the first democratically elected City Council in Cape Town for the 1996 to 1998 pre-interim phase. She became the fourth woman and the first black woman to be mayor of the city.



Kerim Yildiz and Cengiz Çandar with Nomaindia Mfeketo

Mohammed Bhabha: Ms Deputy Speaker, I must tell you there is a huge excitement about meeting you today, and we want to thank you for seeing us and for finding time for us despite your very busy schedule.

Kerim Yildiz: Thank you, Deputy Speaker; thank you for receiving us. We are quite excited about being here. We would like to share your experience of conflict resolution here in South Africa. The reason we are here is that we would also like to learn which mistakes were made during the South African process, in order to avoid making the same mistakes in our situation. Turkey has now been dealing with now 40 years of conflict. The government has initiated a process, and during the course of this process the Democratic Progress Institute brought together all members of the parties in Parliament, including the ruling party and the main opposition parties. We also have with us here distinguished representatives of the media and of academia. Turkey has recently established a wise person's commission, and we are honoured to have some members of this commission with us here today. Lastly, I want to thank you so much again for meeting us today.

Nomaindia Mfeketo: Thank you very much, and welcome. I am very happy you chose South Africa as your destination, to learn about what we have been through. From my side I am accompanied today by the head of International Relations and other colleagues, and I must explain that it would have been nice to have other members of Parliament, but unfortunately this is the week when members are not sitting and many decided to go back to their provinces. In addition to my role of Deputy Speaker, I have agreed to see you also as an activist and member of the ANC. I hope we will have an open and frank discussion today. I am happy, that you want to learn both the good and the bad in order not to make the same mistakes that we made, and I think that is a very good approach.

I think that as South Africans, from the beginning we needed to have the will to resolve the conflict. Though you cannot solve a problem just as one country, as we are a global community, you need to find the right solution for your own case. As I am sitting here, 19 years after the establishment of a democratic government, I am still convinced that there was no other way to resolve the conflict. It might be different in other countries, but here we would not be where we are today if we had not resolved it in the way we did. It is certainly taking a long time, we still have lots of poverty, but that is the road we chose to take. I think maybe it would be better if I took your questions directly, so that it will not be just me talking, and we can address the issues that you are really interested in.

Participant: Your Excellency, I would like to tell you that I am really happy to be here. What I would like to ask you is: what were

the main obstacles you had to deal with in Parliament regarding the issue of reconciliation?

Nomaindia Mfeketo: To answer this question properly perhaps I have to start from before we became Parliamentarians. You know the history of South Africa, the ANC had already been established in 1912, and at some stage it was banned and exiled. There was a very hostile environment. Some of us did not even dream that there would ever be a possibility to one day sit across the table from those who we previously saw as enemies. Leaders had to talk to the people of South Africa and convince them about what was good for the country, and they needed to have the political will to do it. It was very difficult for the leadership of the ANC, some of whom had fled the country in the 1950s, and were sitting in exile being angry. They thought freedom meant that we needed to change our situation immediately; that we had to go and take houses, just as they had done to us. We wanted some of the wealth of the people that were in government at the time, a wealth that was stolen from people, who were not even compensated. Though, I think that the firm voice stating the political will to do the right thing prevailed. It was only after 1994 that everybody in this country could vote. It was only then that we started to consider the process of reconciliation as one that should be framed within the context of Parliament, as an institutional process. People were still very angry. We could vote, we had a democratic country, and we were about to change many laws that discriminated people; but we needed to create a platform for the country to go through a process of collective healing, by revisiting some of those very challenging experiences. Mandela chose wise people to be part of the TRC, from both sides. We were able to talk to the people we

identified as having committed those atrocities, and they were able to apologise. The process took a long time, and many people from the old government and from different departments (particularly the army) came to testify and apologise. I think it was a very good experience for all of us, because we were able to have some - I am specifying some - closure. Families did not know where their loved ones were buried, or even whether they were dead or alive. The requisite for forgiveness was that all the truth had to come out. If the commission felt that the amnesty seekers were lying, they would not be released; the same would happen if they were known not to be acting on their own and yet did not want to reveal their accomplices' names. Once they discovered the truth, the problem was to assist the victims, which is the part that is still incomplete, and we are still dealing with it. Did we force full reconciliation after that? Yes and no. While talking about anger you need to be consistently aware that the path towards reconciliation does not take a day or a single commission. It needs each and everyone to know that we need to move towards a better country. Many people who were responsible for atrocities were not forgiven, even though they went to the TRC and admitted everything.



The delegation before a roundtable meeting with Deputy Speaker of the South African Parliament Nomaindia Mfeketo

Participant: Is anyone in the Parliament now trying to revoke some of those laws that were passed at the time? After 19 years, is anyone trying to retain anything?

Nomaindia Mfeketo: Surely there were laws made by the apartheid Parliament. You will realise that most of those were laws that were oppressive to those who were not regarded as South Africans, and naturally the most obvious ones were the racial ones. But there are laws, like the Black Local Authorities Act of 1982, that were specifically designed for black people. Even after 19 years, we still realise that even acts that we have already amended still speak more to the old power structure, so we keep amending them. It has taken a long time up to now, and we are still amending or devising new laws to replace the old ones. So yes, we are changing, though not as fast as would be required by ordinary people on the ground, especially by those that are feeling the pinch of poverty. I hope I have answered your question.

Participant: I have a psychological question; how do you feel about de Klerk being Deputy President of Mandela after he was part of the old regime?

Nomaindia Mfeketo: How do I feel about him or what he did? Well, consider that he was the one who at least was able to read the writing on the wall, and do the right thing, by stopping the bloodshed that was going on. A simple request from the majority in this country was the release of Mandela, the unbanning of our organisation and the beginning of talks at the negotiating table. It was not a change of heart from his side, but he did it all. And I must say that this was also done to a larger extent because of the global

pressure put on South Africa. They could no longer take part in international sport events and the majority of them would not feel proud abroad in most of the countries; they were not welcomed comfortably anywhere. And yet, he was able to do the right thing.

Participant: Did you meet resistance from the institutions of the old regime, such as the Police, the Army, or the bureaucracy?

Nomaindia Mfeketo: No, not really. One of the things that we have done in Parliament is that whenever you introduce new laws, there needs to be public participation; you have hearings, you go back and forth modifying them, and it takes a long time to pass the law. Here in South Africa we did not have resistance from the bureaucracy in particular. It might have come under the disguise of ordinary community members, or maybe of NGOs, but I do not remember an incident when there was a very sharp dissatisfaction within those parts of the Department of Defence. Naturally there would be lots of debates, and from time to time the NGOs in the community were able to mobilise very strongly, but we have always taken it in a positive spirit, because we believe you can only be confident that you have a good law in place if there has been that vibrant, robust debate, which at times forces you to make changes on issues that you really had not seen when you were drafting the law in the first place. At the end of that process, the appeal is significantly improved because of the debate within the community between legislators, opposition, and NGOs. In Parliament the fact that the governing party is both in legislative and executive arms does not mean that we can afford to exclude people from participating in the process. To give a good example, if there is an appeal that we believe would affect women negatively we would stand against it even if it comes from the ANC.

Participant: But I asked you about the old regime.

Nomaindia Mfeketo: I would say yes, at times, because they are part of the opposition, but I would not necessarily call them the old regime, because as time goes people have mixed.

Participant: My question is about you being a woman: was there a similar Free Mandela platform organised by women, and how effective was it? Did they work together with white women?

Nomaindia Mfeketo: Yes, as far back as the 1950s women were mobilised in different places, there was an African Women Congress, an Indian Women Congress and a Coloured Women Congress, and they formed themselves into a federation. They marched on August 9, 1956. We were young back then, and even though that organisation was never banned like the others, many of the members went into exile anyway, because they were harassed by the police. In the 1970s we started women organisations in different provinces. We did not want to see them as political, even though the background was. For us it was a platform for starting what we have today. And I still remember the motivation for that. We wanted black and white women to work together and to cooperate; we had incidents in South Africa where a black woman would work for a white family for years and raise this young man who at the age of 18 would have to go to the Army. He was then sent to the townships to kill everybody, including this woman whom he regarded as his second mother, and the kids he used to play with. And of course in that instant he would do it reluctantly. Our organisation was saying that it was important to come together both as white and black women, to begin to create the South Africa that we wanted. We

created this organisation called the United Women Organisation, which became part of the United Democratic Front, and it was the forerunner of the women's organisations that we have today. When the negotiations started, we said that we wanted to be represented, since as women we had fought shoulder to shoulder with our men. In most countries you would have women struggle in the fight and then be pushed back to the kitchen once the struggle is over. We did not want that; we needed to have representation of women. If you read our country's Constitution we can still point out the clauses that were included to ensure women's rights. Those issues were put sharply into negotiation.

Participant: When did they allow women into the ANC?

Nomaindia Mfeketo: In about 1953. Even then as women we did not relax. As a result, the ANC is now the only party that ensures 50 per cent of gender quotas, whether it is in Parliament, or in Local Authorities. It works. It is a policy. If you submit a list that does not respect the quotas, we change it ourselves to get the balance.

Participant: If the previous Constitution had not been changed, would it have been possible to bring together all of the political parties and accomplish these changes? Would the old Parliament have been able to perform them?

Nomaindia Mfeketo: No, that is why we had to start with the Constitution of the country. You had to start with changing that Constitution. The old Constitution did not even allow me to sit in this chair. Changing it enabled us to create an environment in which we could change laws.

Participant: The ANC was the party of the oppressed race, but it was also the party of the oppressed class. What did the ANC propose to change the crude reality and the balance between ‘first’ and ‘second class’ citizens?

Nomaindia Mfeketo: This is a very important question. We took a particular route to reconciliation as a country, but it does not mean at all that that route was 100 per cent smooth. Now even though the majority of the membership of the ANC are those people who were marginalised and poor, the ANC was a liberation movement of all classes, and if you go back to the beginning of the institution of the ANC, the people who came forward with the idea of coming together were most of all religious ministers and academics of that time. It sort of accommodated everybody. It is a process, and you are right, it seems to be taking even longer than we thought to change the situation. And in the end, did we really deal with poverty? People are still living in dreadful conditions. Though what you need to look at very carefully is the negotiations’ focus around the first phase of freedom - political freedom. There is nothing you can do if that environment is not in place, if you do not have a Constitution that accommodates everybody and a government for all the citizens of one country. And we are equal before the law. That change is not an easy one, and up to now you still have people that behave as if we were still in 1993. This was the first phase. Now to have the situation of economic freedom which would deliver what you are talking about, we have to make sure that it is not the 10 per cent of the population of South Africa that controls more than the 80 per cent of the economy. This is a reality we are facing. Yes I agree, as a government we could make laws that would take from the rich to give to the poor, but what is that going to do

to the country? When you are working on reconciliation, you want everybody to agree that it is important not to have the majority of people subjected to poverty when the tiny minority is the one that controls all the wealth. What would you do in your country, would you make laws that say that you can only earn a certain amount of wealth? It is something to discuss. If you think about the extremely rich land that was stolen from the black population about 100 years ago, it would not be democratic to take back that land by force, as it is not the present generation that took the land. They are instead people you are trying to embrace. In the shortest possible time, we need to deal with poverty. We need to deal with unemployment. We need to deal with the gap that seems to be growing in a democratic country, between the rich and the poor.

Kerim Yildiz: Deputy Speaker, many thanks for your time and for sharing your experience with us. It was amazing to be able to talk to somebody who has such direct experience here today.

Nomaindia Mfeketo: I think they were very important questions, those that came around this table today. I really appreciate that you included South Africa in the countries you want to visit and learn from. We chose a route that we thought would bring us much more quickly to the goal of having a democratic country; it did not provide us with all the solutions to our problems, but one thing that I can say is that now we do have an enabling environment to do whatever we want as South Africans. Every now and then there will still be resistance, but if the political will is there, even those that are resisting will see that there is no option except to do the right thing, in a democratic country. Thank you very much.

Thursday 2nd May – Lunch at Kombuis Restaurant, in Bo-Kaap Cape Town

Venue: Kombuis Restaurant, Bo-Kaap, Cape Town



Members of the delegation enjoying lunch at Kombuis Restaurant, Bo-Kaap

Bo-Kaap is an area of Cape Town situated on the slopes of Signal Hill, west of the City Bowl. Formerly known as the Malay Quarter, the area was populated by a mixture of political exiles, convicts, skilled craftsmen, artisans, scholars and religious leaders from different parts of Southeast Asia, and collectively referred to as 'Cape Malay'. After the demise of racial segregation under apartheid, and as a result of Cape Town's recent economic development, property in the Bo-Kaap has become very sought after, causing gentrification.

Thursday 2nd May – Session 4: Roundtable meeting with Dr Shuaib Manjra and Judge Siraj Desai¹⁰

**Presentation and Roundtable Discussion:
The protection of religious minorities and of religious and cultural freedoms**

With:

Shuaib Manjra, Muslim Community Leader

Faizal Dawjee, Head of Communications at the Office of Former President Thabo Mbeki

Judge Siraj Desai, High Court Judge

Venue: The Forum, Victoria and Albert Hotel Boardroom, Cape Town

Moderated by Kerim Yildiz



Dr. Shuaib Manjra and Judge Faizal Dawjee with Mohammed Bhabha

¹⁰ Mufti Siraj Desai served as an Imam at the Islamic institute of education Masjid Abu Bakr at the Darul Uloom; he is a member of the National Board of Muftis and SANHA's board of Muftis. The Darul Uloom is the centre of many projects initiated by Mufti Siraj; arranging Jumats and Taraweeh for the Eastern Cape, running Maktabas, EC Muslim Prison Board, publications and more. He has authored several books on the subject of Islam.

Kerim Yildiz: This afternoon we have three speakers with us; we will briefly discuss the role of Muslim leaders in South Africa and will be looking at a number of issues, including the Bill of Rights of South Africa for the protection of minorities and of religious and cultural freedoms. We have two distinguished speakers, Dr Shuaib Manjra, who was very much involved in the role of civil society in bringing down the apartheid regime, and Faizal Dawjee, whom some of you may remember, as he used to freelance with *Milliyet* newspaper in Turkey; here, he was responsible for the Government's communication issues. We also have a third speaker, Judge Siraj Desai, who is a Constitutional Court Judge. Many thanks to our distinguished speakers for joining us today.

Shuaib Manjra: Good evening, Salam aleikum, marhaba. My name is Shuaib Manjra. I have been an activist for many years as both a Muslim youth activist and a political activist, and I currently work with many NGOs in the area of development. I will speak about what our experience has been in terms of the struggle and in terms of drafting the Constitution. I want to begin by saying that we have an enormous respect for Turkey as a country: we are impressed by the level of democracy and its intensification, and by the largely secular ethos in Turkey; we also have deep respect for your economy, and for its important role on the international scene, as well as for Turkey's role as an arbitrator in many issues within and outside of the Middle East. There are hundreds of Turkish volunteers coming to South Africa to help, especially in the field of education. Of course you have your challenges and of course we can share some of our experiences in order for us to learn from one another. Every one of us saw the struggle in South Africa in very simple terms; it was a struggle for human dignity and common

citizenship, which cut across race, religion, ethnicity, language and culture; every one of us looked at the human being beyond labels. In this struggle Muslims and Christians, Jews and Hindus, communists, atheists and people from the African traditional faiths all struggled together. We had marches led by all sorts of religious leaders. Everyone was part of the struggle; all South Africans had a stake in a non-racial South Africa. Of course we have a country that is divided, that has different colours and religions, but the purpose of the struggle was to transcend these differences. As South Africa became democratic in 1994, one of the challenges that we had in drafting the new Constitution was to decide which kind of Constitution that was going to be, whether entirely secular or religious in nature. The body of opinion that won was that which supported a third model, a largely secular Constitution which recognised the important role played by religion in South Africa. The critical element in this Constitution was that, although 80 per cent of the country is Christian, all communities have the same rights. Secondly, we did not provide for the protection of minority rights, within neither the Constitution nor the Bill of Rights; we provided for the protection of the rights of every citizen, every single individual.

Through this, we forged a sense of non-racialism and non-religious discrimination. Of course when you have a majority and a minority there is always the possibility that the majority may in some way compromise the rights of the minority, and the government acknowledged this fact. If you look at the mandate of Nelson Mandela, you will see that he took a number of steps in order to prevent this. He formed a Government of national unity, which was formed across racial barriers and was multi-religious: the first Chief

of Justice in democratic South Africa was a Muslim, and it was the same for other communities. It was our Government that, reflecting every part of the population, gave us the comfort that everybody had a stake. They still created institutions that protected the right of minorities. One of these is the Commission for the Protection of the Rights of Religious, Linguistic and Ethnic Minorities. We have equality courts and public protectors, and if anybody feels wronged they can turn to them. We also have a Constitutional Court, and of course a number of other institutions; we have the independence of the judiciary and of the media, and importantly, vibrant civil society organisations. Having said that, of course there are challenges, we do not live in Utopia. One of them is that there is a hegemony of the ruling party, which has 65 per cent of support, which sometimes might make minorities feel threatened. Secondly, there are fewer and fewer people from minorities entering politics. Thirdly, South Africa is still a fragmented society as we are still lacking social integration: there is still a great deal of segregation between religious and racial communities. Finally, what we need to imbue in our population is the sense of a common citizenship. We need to emphasise it. While I say that South Africa is trying to achieve an ideal, it is still a fragmented society and there are still tensions between groups and especially between classes. We need to confront these challenges, though I realise that it will take generations to fully address them. Thank you.

Kerim Yildiz opens the floor for discussion.

Participant: You mentioned the role played by civil society in the transition to democracy in South Africa. Could you talk a little bit more about it?

Shuaib Manjra: Civil society was represented in the process, and we also had an important role for the involvement of trade unions. We had a whole host of civic organisations: media, education, trade unions, and all of them played an important role through an organisation called the United Democratic Front, which was a front formed of all the democratic and civil institutions. There was a period after 1994 when NGOs went into decline because their leadership was in politics, and only now are we beginning to reconstitute a form of civil society. They are playing an important role now to ensure that the Government respects the Constitution. They are helping people to take the Government to court for issues such as housing and education, and every time this has happened, the civil society organisations have won. Every day in South Africa there are demonstrations against the Government. Although they are not organised in a coherent body yet, they are coming together and they are keeping the Government in line.

Participant: Could you reflect on the role of Muslim communities in the process and look specifically at the role of Muslim expatriates from India and Malaysia?

Shuaib Manjra: To look at the role of Muslim communities we have to go back to the pre-1994 period. There were a number of personalities and organisations back then. You had youth organisations, which were very independent: the Muslim Youth Movement, an organisation called Qibla, which was involved in the armed struggle, and one called The Call of Islam, which was very much linked to the ANC. All three were very active in the anti-apartheid struggle. Ethnic backgrounds were mixed between people of Indian and Malay origin. Since South Africa

geographically is divided into provinces, the majority of Malays are based in the Western Cape, while the people from India live mainly in the north. Then you had other institutional organisations which represented the ‘Ulama’ bodies such as *Majlis al ‘Ulama’ in Transvaal and Jamiat al ‘Ulama’ in Natal, both of which were mainly Indian and very conservative in matters of theology. In the Western Cape you had the Muslim Judicial Council, which was mainly Malay and very progressive, and played an important role in the struggle. You got large numbers of Dar al ‘Ulum-s, training colleges for ‘Ulama’* that essentially follow the Indo-Paki form of Islam. There was also a portion of the Muslim population that did not act within the framework of Muslim organisations, but instead within democratic ones, and a large number of them are still in politics. Many of the members of The Call of Islam were in politics after 1994; Qibla became involved in media and civil society, while the ‘Ulama’ bodies became sympathetic to the government. There were also a few ‘Ulama’ who went into the government, both in the opposition and in the ANC. If we look at the role Muslim communities’ play now, I have to say that being a minority community they cannot become overtly critical of the government for reasons of self-preservation.

Participant: Have there been tensions between Muslim communities?

Shuaib Manjra: I do not believe there are tensions. If so, they must be tensions of an ethnic kind, which are a legacy of apartheid, as Muslims of African descent are still dispossessed. We need to change this and bring empowerment into these communities.

Participant: You mentioned that some did not support the process. What was their rationale?

Shuaib Manjra: The rationale was the theological principle that you respect the rule of the country. There is a Koranic verse - the 4:59 - that says 'Obey God, His Messenger, and those in authority among you'. The second rationale was that, as I said, as a minority group you always respect those in power.

Participant: How big is the community? Are you represented in Parliament?

Shuaib Manjra: one to two per cent of the population of South Africa is composed of Muslims; out of a population of 50 million, about one million people are Muslim. In Parliament we have three or four Deputy Ministers, and we have Muslim judges of the High Court, including Judge Siraj. The Muslim community is very well represented at all levels of civil service, government, parastatal organisations and civil society. They are probably better represented than demographics would suggest, and this has to do with the fact that they came from Malay and Indian communities which were relatively privileged compared to these of black Africans.

Mohammed Bhabha: If you want a figure, in 1994 when Mandela was elected while only the two per cent of the population was Muslim we had 13 per cent Muslim representatives in Parliament.

Participant: What happened to those who did not support the process?

Shuaib Manjra: The new society and the new government embraced everybody and held no grudges, so people that were part of the apartheid government became part of the new one; but if you look at those organisations, given that as I said, their core principles were self-preservation and to support those in positions of authority, it follows that they got to support the new government as well.

Kerim Yildiz: Thank you Shuaib. Now let me hand over the floor to our second speaker, Judge Siraj Desai.



Members of the delegation during a roundtable meeting with Judge Siraj Desai

Judge Siraj Desai: Good evening, and thank you for inviting me here today. When South Africa changed, all the judges here in South Africa used to be white Europeans. I was the first person of colour to be appointed to the bench, and I have been a judge for 17 years now. So I have seen the evolution of this country from the perspective of a High Court judge. But that is not my life; I spent most of my previous life fighting against apartheid. My experience was slightly different from that of Dr Manjra: I grew up in the Cape, where there was a big leftist movement, and I was at the very left of the political spectrum. My conversion to the ruling party was slow, but in the end I joined it before 1994.

The position we had adopted was that any compromise would be a betrayal of the majority of the people of this country, but no ruling party would cede power voluntarily. Mandela's government brought about fundamental changes to the country. Our greatest achievement was a Constitution that grants equal citizenship to all South Africans. Prior to the maturation of our democratic progress this country was fragmented. The greatest things of all are the mechanisms placed in the Constitution for its protection. All South Africans are not only equal but also equally protected, thanks to the Constitution. There is one aspect of our Constitution that is unique to a modern democratic Constitution: it also gives social and economic rights next to basic legal rights (such as the rights to housing and running water). But in the period of change, fundamental liberties have been protected. Not just thanks to the courts, but also to other institutions. Sometimes we have made mistakes, but we have a Human Rights commission, which is representative of the South African people, one that people who want to complain about human rights abuses can approach. There is a contentious issue of language in this country as well: there were two major official languages, English and Afrikaans.

It took a lot of effort at the time of the negotiations to deal with the difficult situation, as everybody was fighting for his own cultural and linguistic rights. We came out with the unique resolution that all languages in this country are official and need protection, so now we have 11 official languages. Of course in practice in most instances, such as in courts and universities, we only use one or two, but there is a massive strive to protect all the official languages. There are also institutions that protect the various cultures in South Africa. A problem that we have is that with any decision

the Government makes, it has to provide with a reason for it. That has resulted in a number of complications, because the majority of people are not sufficiently literate and sometimes decisions are set aside because the reasons that are given are not properly articulated and people cannot understand them. But we live with the legacy of what the TRC has given to us. The TRC was an enormous step forward in resolving the problems in this country, but of course it had its own problems too. There are numerous cases still pending in our courts, where people have complained that some of the perpetrators never had to serve. I am not entirely sure that the TRC as we did it was entirely consistent with the norms of international law; I was recently in Nepal and I saw that the courts there set aside the TRC. But coming from my background, although I was initially sceptical about it, I must immediately admit that without that important step we would not be where we are today. There are also other problems: the Constitution as it was interpreted resulted in inequity of land in this country. We celebrate this year the 100th year of an act of Parliament that resulted in the vast majority of people living on 8 per cent of the land. It achieved its intended purpose, the result of which was the dispossession of the indigenous majority in this country.

The Constitutional mechanism that was set up to deal with that problem was the Land Claims Court, which is over-legal. In 20 years we have only seen that problem to a very small extent. There is still a big economic gap between the rulers of yesterday and those of today. On the other hand we have been unusually successful in developing, popularising, and protecting fundamental liberties. We also have Equality Courts, where judges have jurisdiction to deal with all sorts of discrimination. So at that level we succeeded as a

nation and the Constitutionalism and the protection mechanisms in the Constitution have been effective, but we have problems with regards to economic disparity. As I said, I was sceptical, but looking back I have to say that my scepticism was unfounded. Although the process was slow, we have managed to democratise all of the leaders in this country. In one of my other jobs as the Chairman of the National Muslim Prison Board of South Africa, which is an extremely difficult function, we have set up processes by which people can be liberated through democratic means. As Chairman I take responsibility for that. That is another arena in which we have managed to rebuild South Africa. You could not publish a photograph of a prison back in the day; today they are open to inspections. Much has changed from the past, we let sunlight in. We are fortunate to see democracy working in this country. I am familiar to some extent with your problems in Turkey; I am not going to deal with them but I can just say that in our country we set up a road map with our friends in the ANC, and we can say, humbly, that our leadership succeeded. Can you imagine appearing in a courtroom where there are three judges, and they are all white and you are black? A lady could not wear a scarf in our courts; men could not wear the Fes. Our courts are so different now. I was the first Muslim judge in the Cape.

Shuaib Manjra: That is striking, if you consider that the first Muslims in South Africa came in 1658.

Kerim Yildiz opens the floor for discussion.

Participant: Thank you very much, your Honour. I have a question concerning the number of national languages: how do

you manage all of them in the court? In which languages do people defend themselves?

Siraj Desai: That is a very important issue in this country. The charges are delivered in the accused's own language, and that has never been a problem. The real problem is which language the judge should speak. I speak English and Afrikaans and if the attorney speaks one of the two I speak his, but the problem is that many judges appointed outside of Cape Town do not speak Afrikaans. Records are in a language they do not understand, and it costs an enormous amount of money to translate each record into English. A few years ago we decided that the language of records should be English because it is the language universally used in this country, and three judges were appointed to look into this. Sometimes we use interpreters to understand the accused, but the problem is that there are different nuances in languages and interpreters are not always satisfactory in this, though it is the only solution here. Thank you very much for raising that problem; it is a very important issue and it has been discussed for ten years now.

Participant: In the previous presentation it was said that the Constitution protects the basic rights of all South African citizens, and that it also secures the right of religious communities to impose their own rules. What happens if there is a conflict between the two?

Siraj Desai: This is also a very difficult issue in this country, and the problem comes from the religious communities themselves, which cannot agree on their own regulations. For example, the Muslim communities among themselves could not agree on how

to deal with divorce on a Muslim basis, and they still cannot agree on how to resolve Muslim marriages. That happens with a variety of cultural rights. Of course when cultural decisions are susceptible to change, they develop over years.

Shuaib Manjra: There are two communities which are particular: one is that of African traditional religions, which had African customary law. The courts made some effort to recognise some of the precepts of African customary law, but the problem with recognising it is that the application of that law might conflict at times with the Constitution. The Muslim community for many years got together to work on a bill together with the Parliament. They wanted to develop Muslim personal law regulations, but the community itself could not agree on the provisions: disagreements emerged, especially around issues of marriage and divorce, and around that of polygamy. The government still cannot rule on these issues, as agreement has yet not been reached. Some of us believe that personal liberties are better protected under the Constitution than under Muslim personal law, and therefore we argue that there is no need for it. If women want to access justice in some cases and do not have the resources to do so, they have to resort to the Constitutional Court. There is another body that says that, issues of Muslim personal law (and the same goes for other groups), should be dealt with by the communities and not by the Government. I believe we should have one law for everybody, some people have even begun to speak about sharia courts, and that has become hugely problematic.

Participant: What about property law? Are there any problems?

Siraj Desai: That is a huge problem as well, not so much concerning property law, but rather the law of inheritance. If you die without having made a will, then properties are distributed to the descendants according to our law. The problem arises when you make a will and say that your properties should be devolved according to Islamic law: we have had situations in which people would leave their houses, to be divided according to Islamic law. Imagine if you leave a small house where your wife and children still live, by Islamic law your wife would not get a share of it. So we dealt with these situations according to our own vision of Islamic law, we told people to come to us to compile their will, and explained to them that if they wanted their wives to be protected they had to make provisions for that. In the South African context, simply applying Islamic law can lead to unfortunate circumstances.

Shuaib Manjra: I agree entirely, ultimately I believe that the aim of Islamic law should be justice, and if there is no justice then there must be a problem with the law.

Participant: Do you still have problems of hate speech, and if so, how do you deal with it? Are there specific laws against it?

Siraj Desai: That is a very important question in the South African context. That is what they called Equality Courts for; they have been designed to deal with hate speech. There are two constituencies that use the hate speech mechanism: one is the old order, meaning those people who were in favour of apartheid. There was a famous example, in which a political leader sang a song which involved the words 'kill the Boer, kill the farmer', and that was held to be hate speech, although I disagree with it, because

it was a song of the old order, that we sang during the struggle years and we still sing it rarely, but that was the decision of that court. The other hate speeches running instinctively are those against the Jewish community; those regarding the Palestinian cause. There are a lot of complaints about it from the Jewish community, which considers them to be examples of hate speech, especially when they call for change in Palestine. There is a famous case where a radio stations had a foreign speaker that dealt with that issue, and it has been vigorously debated in our courts. Coming from our past we have more freedom of speech and religion than most countries in the world. The Muslim community is small, but our values and rights are protected by the Constitution. Freedom of speech is one of the main components of every truly democratic system; the problem is the limitations to it.

Participant: when did you begin to issue the harmonisation law? What is the role of the Constitutional Court? Is it just to make the law comply with the Constitution or is it also to balance the executive and the legislative?

Siraj Desai: Thank you for this question. This took much of our time in the period leading up to 1996, when our Constitution was finally adopted. What we did was making all laws subordinate to the Constitution. It did not mean though that our criminal law fell away as a practice, all laws remained in force unless they were abrogated by the Parliament or the Constitutional Court ruled them to be unConstitutional. There were many laws that discriminated against people and immediately after the new Parliament was elected it erased all of them. But we retained are criminal legal system which is partially based on English law and the

actual content of criminal law is based on the Roman Dutch legal system. But that did not deal with modern society, so the modern crimes were promulgated by statute. But the most important thing was that we as judges could not take any decision based on a law which was unConstitutional. If we found any Act of Parliament to be unConstitutional we were not allowed to make a decision without sending it to the Constitutional court within 12 months. For instance I have to say the ANC was coward in one respect: they did not abolish the death penalty because there would have been a popular outcry against it, so they referred to the Constitutional Court which, in one of the most extensive judgements, ruled it to be unConstitutional, being in conflict with the right to life. Most important is the separation of powers between legislative, executive and judiciary. We are not allowed to infringe upon political decisions. For example, the Western Cape government, which is not an ANC government, passed a law closing down 20 schools, and the matter came before me and two other judges. The argument was that the closure of the schools was unConstitutional: one judge said that the closure of schools is a politic decision, and courts cannot intervene; I held that before you close schools the law requires you to consult with the affected community and in this instance there was not sufficient consultation, resulting in the decision being made without being consistent with the law. They took my decision to the Constitutional Court but it refused to hear it. The other important case was that they introduced toll roads. One court held that road tolling was unConstitutional for various reasons, but the Constitutional Court found that to be an infringement of the separation of powers. The issue that you raise is a very important one, we have to deal with that in our daily lives, and make sure that we do not infringe on the separation, but

sometimes as a judge you need to make a decision. My time came six months ago with that ruling; I ruled that the schools had to stay open. Judges are not elected, so there is a rational basis for it.

Participant: How are the judges appointed?

Siraj Desai: Judges are appointed in this country by what is called the Judicial Service Commission. It consists of 8 politicians, the Chief of Justice, representatives of the Court of Appeal, some representatives from the opposition parties and of the legal profession. There is now a debate about the presence of too many politicians on the board, but it is a false debate, because unlike the United States or some other Western democracies where the Government appoints everyone, we have a fairly open process that involves professionals, the judges, and the politicians. Our system is far more advanced than that of most of the Western democracies. But there is consistent pressure on us by the establishment of the legal order to change that. I would rather be appointed by the majority of the elected representatives of this country than having judges appointing other judges. We have a profoundly good system, and the political pressure from the opposition to change that is both unfair and an attempt to put gatekeepers to the judiciary. I was appointed 17 and a half years ago, and I appeared in some of the most difficult cases, I defended the rulers. I was only appointed because the system realised that it needed someone with my background and experience. In the previous period judges were appointed beyond rights, as they had to be white, and secondly they were appointed by means of a secret process. But that was during Apartheid. Look at any modern democracy: in the German Supreme Court they are all appointed by politicians. Look at the

American system. Here we have input from both the professional circles and the political ones, including the opposition. We are the most advanced. If I must defend our Constitution, one of the strong points I would defend is the mechanism for appointing judges, especially in a country such as ours.

Kerim Yildiz: Thank you very much to Judge Siraj and doctor Manjra. It was a very lively discussion, it was really valuable. Thank you very much again.

Thursday 2nd May – Dinner with Yunis Carrim, Gold Restaurant, Cape Town

With

Yunis Carrim,¹¹ Deputy Minister of Cooperative Governance Department

Venue: Gold Restaurant, Cape Town

11 Mr Carrim has served as a member of the Branch and Regional structures of the African National Congress (ANC) and the Branch Central Committee and Politburo of the South African Communist Party (SACP). He has been a MP in the National Assembly since 1994. He currently holds the position of Deputy Minister of Cooperative Governance and Traditional Affairs as of May 2009.

Previous posts and achievements include:

- *Secretary of the Pietermaritzburg Combined Ratepayers & Residents Association (1986-1990)*
- *Chairperson of the Provincial and Local Government Portfolio Committee (1998-2004)*
- *Chairperson of the Justice and Development Portfolio Committee (2007-2009)*



Deputy Minister Carrim with Bejan Matur and Kerim Yildiz

Yunus Carrim: Good evening everybody. First of all, on behalf of the Government, I want to extend to you a warm welcome to South Africa and in particular to Cape Town. We are very happy to have you here and we hope you are having a very good and rewarding stay. In many respects we are brothers and sisters, we are colleagues, we are comrades. We see you as allies. To many extents, if I may say so, a country of the south. We have got issues in common, against the more established industrialized democracies. We know you have specific concerns about your relationship with the European Union and we understand and support your cause, as we think you have the right to be part of the EU. I am told you are interested in our own negotiating transition. I will say a very little bit about it, because you will be meeting other people who are more appropriate to speak on this matter than I certainly am. For what it is worth, I am the Deputy Minister of what we call Cooperative Governance and Traditional Affairs. In our country we have a Minister and then we have a Deputy or Assistant Minister to fulfil political tasks allocated by the President to the Minister, and basically we deal mainly with the local governments. So I will talk to you about

our experience as I see it. I also serve on the Politburo and Central Committee of the South African Communist Party, which is in alliance with the African National Congress and the Trade Union Movement. So this government is an ANC led government, and the ANC is a broad national movement that includes all strata and all classes of our population. We call ourselves a National Democratic Movement and our major tasks are three interrelated aspects: the first one is to forge a sense of nationhood out of our diversity; the second is to ensure a meaningful democracy that goes beyond just voting once every five years; and the third is to achieve development for all our people, but particularly for the poor and disadvantaged. We cannot have democracy effectively unless we ensure development and reduce the inequality in our society significantly. Essentially, we engaged in accommodation of the ANC, of its mass struggle, armed struggle, international struggle and underground political struggle, before we got to the negotiations of 1990 to 1996, when we finally shaped our final Constitution. We came to these negotiations in the context of the collapse of the USSR and the Eastern European block, which made the climate more suitable for negotiations, but also, as it was very well described by an academic, instead of a balance of power at the time (1990) we had a balance of weakness. Neither side had won, and neither side had lost. We were in an impasse, in a stalemate, and it required the considerable wisdom of Nelson Mandela and FW de Klerk to see we could not carry on like that; it would have destroyed both sides. Mohammed Bhabha tells me you want to know why the economy has not performed better and benefited the poor more. When we came to power with the ANC, we realised we needed the whites and other minorities, as we were not strong enough to make a more radical transformation. We found that the

State was not strong enough. When we signed the Constitution in 1996 we could not have a more radical reform; we did not want our white brothers and sisters to leave the country. So we decided that we would put in the Constitution a property clause that while protecting private property also allows the government, under certain legislations, to appropriate and expropriate properties in a way that gives some measure of reassurance to whites and other minorities. They feared that we would not go the Soviet way. 19 years later, though, we realise that we have not done enough to redistribute from the rich to the poor, and we feel that more has to be done, though not in a way that completely penalises the rich. Finding this balance is very difficult; one of the striking features of our new democracy is that the wealth gap between rich and poor blacks is increasing. There are blacks who are extremely wealthy; they have become rich overnight. Many of them are members of the senior liberation movement: some have broken with their traditional progressive values while others, as rich as they are, still care about the poor. But clearly the gap is too wide. We are moving towards a more state-led growth path. We have something called the New Growth Path, but we also have a national development plan for the country as a whole, with which we are trying to bring together the bourgeois, the middle class, the working class, and the underclasses in a common programme which will stretch from the immediate future up to 2030. Basically we have achieved political power, but economic power still resides way too much in the hands of the old, mainly white elite. And when the black elite is rich, it has often benefited from what we call black economic empowerment: part of their wealth is made up of shares in mainly white owned companies. Even now, 19 years later, we do not have an emerging industrial class as you are familiar with in Europe. Much of the

rich black strata do not produce new value, they do not set up factories, they are not creating employment. They are only taking a share of wealth that has already been created. The government is very concerned about this and we're putting enormous pressure on these new strata of emerging very rich blacks. The other problem we have is that unfortunately many of them are politically connected to the ANC, and so what is worrying us – and particularly the communist party – is the link between business, politicians and the civil service. We are going through a very challenging time, when we want to move the economy around to benefit all our people but especially the poor and the disadvantaged. In our country we get many community protests around service delivery issues; there is an increasing impatience and frustration amongst the poor about the pace of delivery and the new wealth being unduly concentrated in far too few black hands. We need to move towards a more redistributive programme, and that is what our new economic policies seek to do. That is where we are, and I am sure you have got a lot of questions. You can ask whatever you want; sometimes I will specify if my answer represents the government position, or if I am answering you as an activist from the Communist party, or ultimately if it is just my personal opinion. I would also like to listen to your opinion about what you have listened to in the last 48 hours, and what you have retained from it. Thank you.

Kerim Yildiz opens the floor to questions



Ertuğrul Kürkçü and Sezgin Tanrıkulu enjoying Gold Restaurant's entertainment

Participant: What are the figures related to growth after 1995? Can you make a comparison with the growth during the apartheid regime?

Yunus Carrim: Before the collapse of the apartheid system we had a negative growth rate, -5/6per cent. After we became democratic, for about 4 years it grew of 2.5/3per cent and in 2005 it jumped to 4,5/5per cent. With the post 2008 global economic crisis we dropped from 5,2per cent to 2/3per cent. The current projection for the coming year is about 2.7per cent. Unfortunately this is nowhere near what we need; to face a 40per cent unemployment we need a 6per cent growth rate minimum, ideally a 8per cent growth rate, but I fear our projection for the next three to five years is that we are going to reach at best 4per cent, so unfortunately our unemployment is going to increase.

Participant: This new redistribution policy you were talking about, is it a fiscal policy or a programme of public investments? What is its main direction?

Yunus Carrim: Well, if you ask me to what extent it is a fiscal restructuring and to what extent it is a public investment I would say that it is both, actually, but mainly the latter. We are intending to invest 843 billion RAND (which is about \$100 billion) in economic infrastructure and some social infrastructure – so in ports, electricity, transports, and in making conditions more favourable for state company and private sector to grow. We have ignored infrastructure and a lot of it is now ageing and old, because even if we have got the money unfortunately we do not have the technical capacity to spend that money efficiently and effectively. We manage our budget fairly well; some will tell you that the poor are affected, but the reality is that we had a budget surplus before the global crisis. Now we have a deficit, but it is a small budget deficit.

Participant: I heard that there is a strong Landless People Movement, what do you think about it? How does the government face movements of this kind?

Yunus Carrim: The wonderful thing about this country is that we have enormous mass struggles. We hear that South Africa has the highest number of community protests in the world, and as the ANC and the Communist Party, we have no problem with that. What we are unhappy about is that some of them are very violent; we understand people's frustration but as a government we feel that they should engage with us more. We have set up work committees, school governing bodies and policing forums for that purpose. We want people to be more active. We have consented to ensure more democratic participation but we agree we have not delivered enough.

Participant: is the black bourgeoisie increasing or decreasing?

Yunus Carrim: We were hoping to distribute the 30per cent of the land to black people by 2014, but we have admitted we cannot do that. Only 4per cent of the land has been redistributed from whites to blacks, unfortunately, but overall if you add this 4per cent to what was initially owned by black people it sums up to about 15per cent of the land as a whole. But that is a quantitative issue. Qualitative, the land is not being used properly. Black farmers do not have the capacity nor the resources; and where we have invested in land redistribution as a government we have not done enough to help black farmers, so we are partly responsible for the situation. But we should not romanticize the poor either. They also make mistakes and they also take the land and then they do not use it, and then they move into the urban areas and leave the land for which they had fought. So it is a combination of government failures, the complexities of the transformation, and the inadequacies of our people as well. But this is my view, you might not agree with it.

We have guaranteed only that when we take land, we will give compensation to the whites that own it. There is nothing in the Constitution that says we cannot transfer land; it just says that we must pay people a reasonable amount as compensation. Now what many whites have done is that they have increased the value of the cost of the land, and our own officials, some of them, have been very corrupt. They have agreed to inflate the price of the land, so both the white farmers and they themselves can benefit. But our problem is not so much money, that is a problem, but our main problem is capacity.

Participant: When I travel I like to talk to taxi drivers, because I find it an interesting way to get an assessment of the country, so I have been taking taxis, and checked how some of them feel. Yesterday a taxi driver told me that they have to pay a certain amount of money each month for schooling. How are you hoping to achieve the economic empowerment of black people without providing with free education? When you look at the international development index, South Africa still ranks very low and has not progressed much. Thank you.

Yunus Carrim: Firstly, we are committed in principle to free education. Prior to democracy, about 65per cent of black people went to school while now 97per cent do. So as far as entry to school goes, we are one of the highest in the world. But the quality of our education is not great, we agree. Now it depends to what type of school your taxi driver's children are going. The law is clear, if you cannot afford to pay, no school can require you to pay. And a certain percentage of our schools are free of any charge at all. But these schools are spread in far wide areas; they might not be near where a person lives. And yet everyone can go to any school and depending on how much they earn, and provided they can prove it, they have a right to be at that school without paying if not any fees for sure very limited ones. But sometimes the school teachers, the school governing body, and the principal do not allow that to happen, and the poor people do not know their rights. I have dealt with one of these cases last week in my constituency; if they go to a member of Parliament they can get help. I called the principal of the school, and he took the child in because that child's parent is a domestic worker and does not earn enough. The law is clear. We support free education in principle, but we cannot

afford it. Why should I, as a Minister, with what I earn not pay? I have to pay, so someone who cannot afford it can go for free. We can cross subsidize it. So the taxi driver is relatively privileged compared to the 48 per cent of unemployed citizens, and I am way more privileged than the taxi driver, so I should pay much more. So it is not good, but it is not bad either, it depends on the income. But there is also a lot of corruption of course, unfortunately.

Participant: As far as we have understood, black people could not make a big contribution economically. What are you doing to keep this economic growth and make people equal?

Yunus Carrim: We are doing very well economically on the one hand, we are BRICS indeed, but we are not doing enough for our own people. Partly we are in BRICS because of our geographical location. Obviously Turkey, Mexico, and Indonesia, are far better economies than South Africa, but they are not on this continent. When the Chinese and the Indians think about trading with us and investing here, of course it is not for simple solidarity, it is not because they love Mandela. It is because they recognise we are a port of entry to the whole continent, to 500 million people. South Africa may be small, but the continent is big. And we are growing as a continent; we have got mineral and agricultural resources that BRIC countries need. So we are not naïve about what is going on, we are taken far more seriously than we should if you looked only at our economy, but given our political role and our economic growth in the continent as a whole, they see an ideological and strategic value in having us there. But it is true; we have huge inequalities here, as I explained earlier. My own view is that we are a far less racist society than we were 19 years ago, but we are

still far too racist for our own needs. New forms of racism have also emerged. There are also tensions within the black community itself. I think whites have adjusted to the new South Africa far better than many of us thought; we thought that the whites would put bombs everywhere and try to assassinate Nelson Mandela, or current President Jacob Zuma. Now there are pockets of the Afrikaner right that are committed to violent counter revolution. But what is very interesting is that many times it is other whites that expose them to the government and the police services. So what I am saying is that we sure need to be more non-racial; whites need to appreciate the generosity of Africans far greater. African people are remarkably generous, remarkably generous. Not just Nelson Mandela, but the average African. You cannot separate Nelson Mandela, he did not fall from the sky. To answer your question, some whites remain racist. Some whites have come to terms with the new South Africa, but we are not doing enough to break down barriers between black and white. When Bafana Bafana plays, we are all together, but we still remain too separate. So I think it remains a remarkable transition, far better than we would ever imagine but we still have a long way to go. Remember that we came out of 300 years of colonialism, we cannot undo that overnight. We are not asking white people to like black people, we are simply asking them not to be racist.

I would like to conclude by saying that we have many problems, among which the main ones are unemployment and corruption, but we have also made remarkable improvements. We do not have political violence. We read about what is going on in Turkey, and we want to wish you well with the challenges you have. We are not sure how far our experience is relevant to yours; what has worked

for us might not work for you. What I can tell is that you are coming to a sort of settlement with the Kurds. I see that the leader of the Kurds has asked for the armed struggle to be suspended, and I see that your government, even if there are differences within it, wants to talk to them. We can tell you from our own experience, and from the experiences of others who have come to visit us, that there is a legitimate role for the armed struggle, and the ANC is completely unapologetic about ours. But once the opponents are prepared to talk, it is our view that a negotiated settlement must be pursued at all costs. We cannot judge whether the Kurdish struggle is correct or not, I cannot speak about it, I do not know enough.

But my own view is that whenever people struggle for national self-determination one needs to engage with them. And there are ways to give people a sense of identity, a sense of autonomy, without undermining the national state but instead strengthening the national state. In our country a section of Afrikaners said they did not want to be part of South Africa, so we said that, so long as they stopped violence, they would be granted a part of the country only for whites, provided they did not break any of the laws of the country. That area is called Orania. They stopped the armed struggle. They are allowed to have only white domestic workers and labourers, but they cannot break any of the laws of the country. Some people are unhappy, but the result is peace. I am saying that there may be something of what we did that may be of some relevance to you, and if we can be of any help, please know that we would be more than willing to engage with you. Mohammed Bhabha has been encouraging people to come here from Bahrain, Sri Lanka and so on. We are delighted to have you. And finally I want to say I've visited your lovely country last year on a holiday

for ten days. I was in Istanbul and a lovely sea side town, called Kas. I really liked your country and I think it is an enormous promise; I had no idea what a deep civilization and culture you had. I wish you well. If you want to ask me any more questions, I am a politician, I could talk all night. So I am happy to take further questions. Thank you.

Kerim Yildiz: Thank you Deputy Minister, this was a very interesting presentation.

Friday 3rd May – Visit to the Midrand Mosque, Johannesburg

With:

Kaan Esener,¹² Turkish Ambassador in South Africa

Mustafa Eroglu, Secretary General of Horizon Educational Trust



The delegation received a private tour of the Midrand Mosque.

The delegation in front of the Midrand Mosque

¹² Ambassador Esener formerly served as Deputy Permanent Resident for Council of Europe and Head of Department for Human Rights and Council of Europe at the MFA in Ankara. As of September 2012, he is the Turkish Ambassador to the Republic of South Africa, the Republic of Botswana, the Kingdom of Lesotho and the Kingdom of Swaziland.

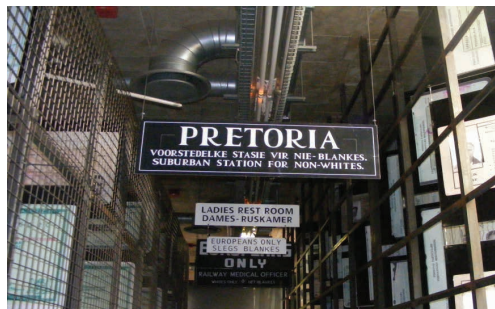
Previous posts and achievements include:

- *Head of Section- Balkan Countries*

The Nizamiye Turkish Masjid was officially opened on October 4, 2012, by South African President Jacob Zuma. Its awe-inspiring dome and soaring minarets, the mosque, the first of its kind in the Southern hemisphere, is a sight to behold. The richly ornamented spaces try to emulate the traditional Turkey. The mosque is, in fact, a smaller replica of the Selimiye Camii mosque in Edirne, Turkey, being 25 per cent smaller than the Turkish original, being its founder a retired Turkish property developer.

Friday 3rd May – Visit to the Apartheid Museum, Johannesburg

The delegation received a private tour of the Apartheid Museum.



Segregated entrance to the Apartheid Museum

The Apartheid Museum opened in 2001 and is acknowledged as the pre-eminent museum in the world dealing with 20th century South Africa, at the heart of which is the apartheid story. The museum is the first of its kind and exhibits an assembled and multi-disciplinary team of curators, film-makers, historians and designers. They include provocative film footage, photographs, text panels and artefacts illustrating the events and human stories that are part of the epic saga, known as apartheid.



Ertugrul Kurkçu, Cengiz çandar and Bejan Matur in front of the Museum

Friday 3rd May – Visit to Soweto, Johannesburg

The delegation visited the neighborhood of Soweto and Vilakazi Street, once home to the Nobel Peace Laureates Nelson Mandela and Desmond Tutu.



Members of the delegation meeting local high school students in Soweto

Soweto is an urban area of the city of Johannesburg, bordering the city's mining belt in the south. The area is most composed of old 'matchbox' houses or four-room houses built by the government to provide cheap accommodation for black workers during apartheid. The name Soweto originated from an English abbreviation for 'South Western Townships'. The 2008 census declared the population of Soweto to be 1.3 million, meaning that approximately one-third of the population of Johannesburg lives in Soweto.



Yılmaz Ensaroğlu and Hatem Ete in front of Nelson Mandela's house

Friday 3rd May – Dinner at Bukhara restaurant, Johannesburg

Venue: Bukhara restaurant, Johannesburg



The delegation enjoying dinner at Bukhara, an Indian restaurant in Johannesburg

Saturday 4th May – Sunday 5th May – Safari at Madikwe Safari Reserve

The delegation enjoyed two days of Safari Game Drives at the Madikwe Safari Reserve. Other than providing the delegation with a different insight into South African culture, the two days spent at the Madikwe Reserve proved to be an essential time for internal evaluation, dialogue and reflection.



The delegation at the Reserve's entrance gate

The 75000ha Madwike Safari Reserve lies in the extreme northwest corner of South Africa's North West province, abutting the Botswana border close to the Kalahari Desert. The land on which the Madwike Safari Reserve now stands was formerly dotted with cattle and maize farms that were showing poor returns due to the unsuitability of the soil. Following an independent feasibility study, the government of the time made a decision to claim the land for wildlife-based tourism purposes more sustainable of the remote region.



Ali Bayramoğlu enjoying the Safari Drive

Sunday 5th May – Dinner hosted by Kaan Esener, Pretoria

With: Kaan Esener, Turkish Ambassador in South Africa

Venue: The Ambassador's Residence, Pretoria



Sezgin Tanrikulu and Burhan Kayatiürk with Ambassador Esener



Ayla Akat and Kerim Yildiz

Monday 6th May – Session 5: Meeting with Roelf Meyer and Mohammed Bhabha, St Albans College, Pretoria

**Presentation and Roundtable Discussion:
South Africa's Negotiation Process**

With:

**Mohammed Bhabha, Advisor to Development Bank of Southern Africa
Roelf Meyer, Founder and Co-Leader of the United Democratic Movement**

Venue: St. Albans College, Pretoria

Moderated by Catriona Vine



*Mehmet Tekelioğlu, Nursuna Memecan and Burhan Kayatiürk
With Mohammed Bhabha and Roelf Meyer*

Catriona Vine: Good morning everybody. You are familiar with them both, but let me introduce them again. Roelf Meyer was elected in 1979 as an MP for the National Party, and in 1986 he became Deputy Minister of Law and Order. In 1988 he became Minister for Constitutional Development, and he was appointed Minister of Defence in 1991 by President FW de Klerk and subsequently he became Minister of Constitutional Affairs and Communications, and it was this position that got him involved in the negotiating process, and it was here that he established an effective relationship with the ANC's chief negotiator Cyril Ramaphosa. After the conclusion of the negotiations in November 1993, he became the Government's Chief Representative in the Transitional Executive Council, and after that in 1994 he became Minister of Constitutional Development and Provincial Affairs. Since leaving politics in 1997, he has held a number of positions, including Chairman of the Civil Society Initiative of South Africa. Mohammed Bhabha is an ANC member and activist, and was part of the ANC negotiating team at CODESA and contributed to the negotiations for the final South African Constitution. He subsequently became Chairperson for the Select Committee on

Constitutional Affairs in the South African Senate. He currently works as an advisor to the Development Bank of South Africa, and acts as an advisor to the Office of the Deputy Minister of Traditional Affairs. As you can see, these two people have a vast experience between the two of them, and we are greatly honoured to have them here to share with us this experience and give us an insight into the methodology of the negotiating process and the Constitutional drafting process as well as their experience throughout the transition in South Africa.

Roelf Meyer: Thank you Catriona. Thank you for giving me the opportunity to share some experiences from the South African process with you. I am going to repeat a little bit of what I said last time, also to give a little bit of context. You know by now what the process is about, but I think it is important to emphasise that what we have achieved through the process was to bring effectively apartheid to an end. Apartheid was not a creation of the last 30 or 40 years, it was an essence, a paradigm that prevailed for more than three centuries in South Africa; a paradigm of separation between white and black, one of superiority versus inferiority. And that came about as a result of the Europeans coming to South Africa for the first time in 1652: the paradigm of apartheid prevailed ever since. As a framework, it was institutionalized by the National Party when it came to power in 1948, and the separation came to be in various pieces of legislation. And that system is what had to be abolished with the liberation struggle. As a result, Mandela and many others were imprisoned. There were tensions between the government and the liberation movement, to such an extent that the situation was intolerable by the late 1980s. How did it happen that the South African government decided to initiate the process?

There were four particular reasons: First, the comprehensive nature of the international sanctions against South Africa which were imposed in the 1980s not only by the UN, but also by individual governments. It is fair to say that these sanctions were legislated in the United States in 1986, in one of the most comprehensive pieces of legislation ever drafted, much more effective than those now in place against Iran. Secondly, the ANC had a widespread support, to the extent that they had representation in more countries than South Africa had official diplomatic missions. The third reason was the level of unrest started in the last part of the 80s: South Africa was in an uninterrupted national state of emergency between 1986 and 1990. It became more and more difficult to keep control.

Part of the ANC policy was to make South Africa ungovernable, and they were really successful. Lastly, and this is very important, de Klerk and many other in power started to realise that we had laws that were completely unjustified, and that we had to move towards a democratic system. Keep this in mind, because if it was not for this we might never have seen these changes; that recognition was fundamental to bring about the reforms. The role of de Klerk and his government was key in bringing about the change. In December 1989, two months before the actual announcement that this resolution was taken by the government, they were trying to assess the level of support for the decision. Two months later the decision was announced, and the process started. It was not always carefully planned. During that period of 6 years we had various breakdowns, some of which of such a nature that we had to start again from scratch. It was a dense period of on-going struggle to find the right agreements. In the process there were three factors, which I mentioned the other night; three principles that were fundamental

to the South African success: the first one was the inclusive nature of the process. What I mean is that we had all the parties participating in the process; it was an open invitation to all political groups. That did not mean that they were all there at all times, some parties decided sometimes to walk out, sometimes to return. The Freedom Party walked out of the process at a given stage and never returned. They thought they would make more pressure by dropping out but did not succeed. What I want to emphasise is that the process was of such a nature that it was completely inclusive, the seats were open, and at all stages we had more than 20 parties. This was one of the factors that led to success. The second factor was the trust that we had succeeded in developing among us. We started as complete enemies; we had been kept apart for decades. And suddenly, for the first time, we had the opportunity to look at each other in the eyes, and cooperate to change the destiny of South Africa. We were fortunate, we managed to build trust between us as opponents in that process, managing to come to an agreement that was reliable. If you ask me today how it was possible to change that position of animosity into one of trust, I think we were really fortunate. But if I have to analyse the key elements of trust, I think it starts by showing respect for each other. That develops in creating understanding for each other, and after understanding trust follows. I can say truly that the level of chemistry that existed between us and that of trust that followed was of such a nature that let us bring about this change and come to an agreement. The third one is the ability to take ownership and responsibility. In the beginning, when the announcement that Mandela had been released was made and the process was starting, there were huge expectations. Many people from abroad started to come to South Africa to assist us on how to negotiate. Fortunately, we resisted all of those pressures. Both the

ANC and we declined it for different reasons. Some very important individuals and institutions came forward. We did not close our ears for good advice, but we never allowed anyone to come forward to facilitate or mediate. Whenever there was a breakdown, we had to go back to look each other in the eye and figure out how to go on from there, and there were many of those moments. That does not mean that we were not sometimes seeking advice: we sought the advice of the Secretary General of the UN, but we never accepted that someone would come and impose himself. We know that each situation is unique, and that all that we can do here is to share our experience, but in those situations of dozens of counties where another person has been involved or has tried to facilitate, the process has not worked out. I think that from my side I have covered the main points I wanted to make, and we can move on to the questions that you have in terms of what you have observed. We want to hear from you. Before I leave the floor to my colleague Mohammed Bhabha, just let me mention that we were from opposing side, we were not trusting each other. We really saw each other as enemies, but during the process we became personal friends, and that is an amazing experience. In some moments I would trust him more than my own colleagues. And that is maybe because during the process we had such an interaction that brought about such a level of trust that we knew we wanted to do the best to achieve democracy for South Africa. Let me use an example: when we had to negotiate the question of the nature of the South African state, it was a point of great disagreement whether we wanted it to be centralized or decentralized. There were people in the National Party who wanted some level of federalism, while the ANC wanted a very strong unity. We came to a conclusion which was somewhere in between; it did not satisfy completely anyone, but it was a

model. And today South Africa is definitely not a federal state, but it could move there in the future. We spent days and nights together, negotiating. I used this example because Mohammed was a key negotiator on the ANC side. Lastly, I have to say that when we reached a certain point in the negotiations after some years, we felt that there was not a problem that we could not resolve. And that was what helped us bring the country to the current peaceful state of affairs. We knew we could solve any problem.

Catriona Vine: Thank you very much Roelf, thank you.



*Havva Kök, Sezgin Tanrıku, and Levent Gök
with Mohammed Bhabha and Roelf Meyer*

Mohammed Bhabha: Good morning. We are extremely fortunate to have you all here. I just want to sketch a scenario: over decades the supporters of the ANC were told that the white people were enemies, that they were brutal. On the other hand, Roelf's constituency were told for a number of decades that black people were sub-humans. It is necessary to understand this scenario. Secondly, as the head of the defence, Roelf was head of one of the largest militaries in the world. He was able to understand that despite the power they had in their hands, they had to negotiate, that the country had to come

first. If the National Party had stayed in power, there was a high chance he would have become President; he was the golden boy. So it is wrong to give the ANC credit for everything; it was a collective leadership. The leaders were able to take their constituencies to the table, despite the fact that they had been told for decades that the other was the enemy. Secondly, the leaders themselves cannot take credit for everything that happened in South Africa, not alone. There was a certain narrative, a paradigm, a consciousness created by the press. Both of us had some very bad people on our sides, and while the negotiations were going on people were being killed. And both of us realised that the only way we could survive in South Africa was to find a convergence of moderates in the centre: the larger the centre we created on both sides, the easier would have been for us to squeeze out the extremists. There were people who were very angry and scared, and understandably so. Many people had been told for many years that the only aspiration the blacks had was to steal the white women. We had to undo what we had been doing for years. During our discussions there were rogue elements that had been responsible for a terrible massacre that brought the process to a halt. I remember speaking to members of the mob and all they wanted was to take revenge and kill white people, and they were ready to do it. It required leadership to convince the people that we could not fall into the trick and stop negotiating; we could not let our rage win. When Chris Hani, one of the top leaders of ANC, was assassinated, it was more difficult to go back to our own constituency than speaking to a white person. We were fortunate that it was a white woman the one who identified his assassin. There are simple things in history that help us, but we have to make political capital about it. The value of leadership is to say things that are not particularly popular. We were unbanned in

1990 and we established branches in every little town, and it was not a top down approach. Never underestimate the intelligence of your supporters, but never overestimate the information you give them. Make them feel included. During the weekends we would go to inform them about our decisions and the process. That was absolutely crucial. Many of our discussions now, 20 years after the process, are about the Constitutional solutions that we took at the time; we should have done a more empirical study on how they would have affected us. We gave local governments power, for instance, and now it is actually not facilitating us from a technical point of view. It was a political compromise, but it means we have over engineered the political structure. Whatever solution you come up with, discuss it with technical people. If a solution is not sustainable, it is not worth being adopted. These are some of the lessons we learned. Thank you.

Catriona Vine opens the floor to questions.

Participant: What was the reaction of white people to the release of Mandela? You said that building trust was important; can you make some concrete examples of what helped you to build this trust between each other?

Roelf Meyer: You would find a number of reactions. Definitely curiosity was one of them, as people did not even know what he looked like since during his 27 years of imprisonment no one had seen pictures of him. There was anxiety too. The right wings, who were about 30per cent of the white community, were all against his liberation; they called it 'Black Friday'. Two years later, that reaction was so strong that de Klerk decided to call a referendum,

and he did it with the consent of Mandela himself. It was the last white-only election in South Africa, and it showed that 70 per cent of the electorate supported the decision. On the question of trust, I do not think that is something tangible. I often say that the best way to describe the development of trust is to put yourself in the shoes of the other person, to understand where he or she is coming from. Once you have that understanding, you can develop eventually trust. When negotiators on the other side would accept one of our proposals, I was sure that they would go on with it. When on the other hand they did not accept, I would understand that it simply was not possible for them to accept it.

Participant: How did you manage to build trust between communities?

Roelf Meyer: To develop trust between communities is obviously much more difficult. People were coming from such different backgrounds and views that up to day we have not succeeded in creating that level of trust. But there was one way of dealing with it at the time of our process, which was by creating mechanisms based on peace accords structures. People like Ivor Jenkins were working at a grass root level. We had to address the level of violence that consistently occurred around the country. We agreed, among all political parties and with some members of the civil society and businesses, that the peace accord was a national accord. This helped us to address to some extent the constituencies and achieve a better understanding at a grass root level. We set up peace committees, where adversaries from the past were sitting together to address the issue of violence. That helped us to improve the relationships, but if you asked me how successful that all was in terms of developing trust between the communities, there is still much work to do.



*Ertuğrul Kürkçü, Ayla Akat and Nazmi Gür
with Mohammed Bhabha and Roelf Meyer*

Mohammed Bhabha: The politicians cannot change a country alone. We were very fortunate to have very strong NGOs, and the role of businesses. The peace structure that Roelf talked about was very important: for all our lives when we saw police uniforms, we wanted to shoot. We hated the police. And all the NGOs held many initiatives at the grass root level where they got police and communities together; it was a bottom-up approach. I will give you an example from my hometown: for 9 years of my life I was transferring guns to my community from my law practice to shoot at the security personnel at Sasol, the energy company. In 1990, when Mandela was released, the first gesture that was made to me was from Sasol, the very people I had been shooting at. We agreed it was over, and we created an NGO together, to bring children together. We worked with the press and promoted these peace projects all the time. Politicians could not have done it alone, we were fortunate to have strong NGOs.

Participant: Throughout the process was your will to live together strong enough? And if there was any weakness, how could you compensate it? Lastly, have you ever thought to separate regions for blacks and whites at any stage of the negotiation?

Roelf Meyer: As a result of the status quo, the idea that we were equal never came about until the process started. The homeland policy, or Bantustan - as it is called, that was the fundamental part of apartheid, created nine separate black states in South Africa, and the idea was that black people from different ethnic origins would have completely different political destinies within those 'homelands'. In the 1960s, there was no idea among the majority of white people that this would ever change. The strange thing this is that despite the fact that this was the Constitutional model, we were living all around the country, and white people were completely dependent on the labour provided by black people in the mines, in the farms, and in the factories. It was a matter of allowing the blacks to work for us, but not in the same political dispensation. It was not until 1979 that people started to change their way of thinking, and realised that our Constitutional arrangement was not going to work. It was a growing notion of the recognition of the incorrectness of apartheid. From then onwards, this was in the minds of white people for another decade before the actual process of change was set in motion. Your last question, then, is a very important one. The reality is that some of the right wing elements in the white community wanted to have a separate state for themselves, and there are still some of them that think that way today. But fortunately the government and the majority of white people would never hold those views. It would be impossible to find a predominantly white area or region

in South Africa which could be declared a separate state. White people are scattered around the country, in the cities, in the rural areas, in the small towns, everywhere. To root them up to a specific region and establish another state would have been a ridiculous solution. So nobody took that proposal that came from some right wings seriously in that regard. At the same time, the ANC and other liberation movements did not want that either. There was not a single political force that wanted to divide the country. The foundation of the ANC's thinking was the 1955 freedom charter, and a very important line in this charter says that this country belongs to all of those who live in it, black and white. There was never a strong body of opinion in favour of that.

Mohammed Bhabha: I think this is a very important question. It would be naïve to believe that this country is so homogeneous; it is not just divided in terms of race, the African community was exploited by the apartheid government. We had another challenge, the one between customarily and cultural practices: by a systematic patronage, the government had given chiefs of certain tribes privileges that they did not want to give up if apartheid was brought to an end. To say that even in today's world ethnic allegiance does not play a role within the consciousness of an average person in South Africa would be extremely naïve. So we had to create a model that would accommodate black and white, and especially the Afrikaner people who were a minority. We also had to accommodate people within the African community, who had stronger ethnic ties and who had also not necessarily had a strong appreciation of democracy. I say this because of our Constitution: the creation of provinces was something that we as the ANC were totally opposed to, but it enabled us to manage the ethnic urges. Our challenge was

to create a multi-dimensional, multi-identity South Africa. A Zulu person would not feel that his Zulu identity is compromised, while at the same time framing it within the context of a broader South African identity. And the only way we could do that Constitution was to first foster the powers of local government. We could try to include the concept of ethnicity within a broader South African identity, and this is a very easy step to undertake but it has to translate into Constitutional mechanisms. I think this is, if not the only, for sure the first instance in the world where the powers of local governments are Constitutionalized. No government that ever comes into power can remove them; I think we have given too many, but that is a different issue. When people believe that the day to day running of their lives is managed by a municipality that reflects their community, the ethnic tensions are made manageable.

Participant: I have a question about the negotiation process itself. I am interested in the technicalities: how long did it last? Who were the people around the table? Did you have an agenda? Did you need to discuss with your parties if you reached an agreement?

Roelf Meyer: From your question I understand you are a really strong believer in processes. If you ask me what would be the value with regard to content versus process, I would say it is a balanced combination. What we fortunately did, was to found a process that was workable and implementable, and then to sit down and start the negotiations. When Mandela was released it took us almost another two years before we got to the real point of the negotiation. For the first two years we just held talks, until we got to the point when everybody recognised we were ready and we decided to design the process. It was a very intense period of three months, when we

just focused on the design: who should be there, what should be the size of the delegations, who would be the chairmen. All of these issues were part of the negotiation of the design. There were more than twenty parties participating at each stage. We had a negotiating council. Each party was represented and decided who was the chief negotiator. We had three formal and three secondary ones, and at least one the three had to be female. We had a good spread of women. We had a steering committee of ten wise people, who would come from different parties and were able to give directions whenever there was a stalemate. We had various tools to bring about decision, and the best one was sufficient consensus: it was designed as a way to come into decision making acknowledging that we would never have general consensus but also that pure majority decisions would be problematic because of the minorities. The sufficient consensus does not have a definition, but it was generally accepted that if there was an agreement between the ANC and the National Party, it would be much easier that the thing would move forward. Then we would speak to the other parties and work out something from there. The chairperson of the day would be responsible to decide if there was sufficient consensus.

Mohammed Bhabha: It was not about creating unanimous decision, it was about consensus and that created a lot of trust. Much of the negotiation was carried out in public, so what happened is that they felt the pressure of disagreeing. There was an actual excitement. It is all about building a momentum.

Participant: Thank you both for your presentations. The main actors were possibly de Klerk and Mandela, but how many other people had been involved in the negotiations before they were

made public? Was there inequity the first time you went to the table and if so, how did you solve it? How did the National Peace Accord affect the process? Finally, how could you socialize the process among the communities, and what was the most important element in making it public?

Mohammed Bhabha: You have to remember that the project was not only political, it was about reaching a social agreement. The society was divided on various levels. Picture this, you are in Turkey and every night in the afternoon there is a public bombardment of messages about social cohesion. Then there were clever ways to create the excitement. We used to have judges and academics going on the state television with programmes; there was a judge, for example, who was the anchor person of a show where he would discuss the possible Constitutional solutions and the various legal mechanisms. It generated an excitement and it popularized democracy, at least for sure in my constituency, where people had never voted. The meetings themselves were broadcasted live. The main things were done behind the scenes, but the public became excited to be included.

Roelf Meyer: Let me provide some context for the first question: the first direct talks took place in great secrecy and for three or four years there was no word about them. The process was conducted by the intelligence community; they were the first one to interact with Mandela. I would say this developed an appetite for a process to start. This was happening at a stage where the government position was that they would never allow the release of Mandela if the violent struggle was not put to a halt. They would only engage negotiations if the ANC renounced violence. When it was finally

decided, they informed de Klerk that it was time. Also Mandela set conditions: he would not walk out of prison unless all of his comrades were back from exile. It was all about mutual expectations and setting conditions. Mandela and de Klerk took sort of back seats then, they were not expected to be there on a daily basis. As a chief negotiator I had to report to de Klerk on a daily basis, but he did not have to be there. I had a wonderful relationship with him.

Participant: Just to follow up, how many times did you need to ask them to step in?

Roelf Meyer: It depended on the nature of the issue. We had frequent meetings of Mandela and the Klerk and the close advisors, but it was often behind closed doors. We did not hold them more than three or four times a year. The main process was the public one, then they would step in to sign stuff. All the meetings of the negotiating council were open to the press. It was completely transparent; South Africans in every corner of the country were kept up to date with what was going on. Sometimes we also had to go behind closed doors to find the answer. You also asked about the role of the Peace Accord. It was a very important element in helping us move forward. The negotiations that Mohammad and I were responsible for, together with our colleagues, took place about the drafting of a new Constitution for South Africa. But outside of that arena there was a lot of tension playing out, which led to lots of violence which we could not control from the negotiating table. It created many problems for us, because every time there was violence taking place that would reflect on our agenda. But we could not do anything to control it. So that it when the Peace Accord came in, because it was agreed upon by all parties, and

we agreed the structures that could deal with the problems of our country. It was taken out of our hands, and we could go ahead with the drafting of the Constitution.

Mohammed Bhabha: Even the composition of typical meetings was not only made up of high level personalities; there were people working on the ground: civil society, police, and businesses there. In many ways the authority of the police became community based: communities started to police themselves to ensure peace would be maintained. The 80 per cent of the issues that we discussed were technical. There were also some major political issues: civil servants, for example, were extremely nervous that they would lose their jobs, and we had to discuss ways in which to reassure them. These were issues that had to be negotiated behind the scenes. But the other issues had to be discussed by technical people. We did not want the ‘deal breakers’ to mess up the process, so we had a channel: we broke our discussion into themes, such as the Bill of Rights or the Judiciary; then we separated them into different teams. In this way, if there was disagreement on one issue it would not halt the whole process. There is just one other issue that I think is very important to mention: the confidence in the process. After two years of talks we had gained credibility and ownership of the process. If you do not have confidence in the process, you will never be able to bring it into the outcome.

Participant: How did you ensure that the principles you had negotiated in the Constitution would be respected after the elections? Clearly, the political situation was very different then, how could you trust that they would not be set aside?

Roelf Meyer: After two years we had a complete breakdown in negotiations. The reason was that there was a massacre, perpetrated by government security people. After the breakdown we had to start the process from scratch again. Cyril Ramaphosa and I drafted a document that was signed three months later by Mandela and de Klerk, that was called the Record of Understanding, and it contained all the essential elements. In this document it was agreed that we would draft an interim Constitution, and that it would be a complete Constitution including the Bill of Rights, and would provide for the establishment of the Constitutional Court. It was further agreed that it would be re-drafted after the election of a government. Finally, the Constitutional Court would adjudicate that the principles in the first one would be respected in the second one. This provided the continuity; the Record of Understanding was the founding agreement.

Participant: Are these principles something abstract or concrete? Can you be more explicit?

Mohammed Bhabha: Let me give you some context again: the ANC had been unbanned. The government was that of the Nationalist Party, which entered into negotiations with the ANC and the other parties, which we separated into statutory and non-statutory. The first would be those represented in Parliament, the non-statutory were those that were not in Parliament but that by and large represented the oppressed population of the country, such as the ANC, the Pan African Congress, the Congress of South African Trade Unions and so forth. Those were the two groups that started discussions on the interim Constitution. Remember that we also had to have discussions about the first democratic elections, it had to be recorded somewhere, we needed institutions

that would oversee them. That document was recorded in the interim Constitution. There were also other very important things recorded in it; neither the ANC nor the National Party would have taken part in the elections unless certain principles were agreed on: a major one was that of one person – one vote, universal franchise. There was also a major concession on the part of the ANC, which was included in the interim Constitution and that was the nature of the state. Remember that there was a battle between two movements: a unitary view and a federal view. One Constitutional principle said that there would be three levels of government: municipal, provincial and national government. There would also be an Independent Electoral Commission, because we needed someone to ensure free and fair elections. There were two areas that were really the central nerve of everything the Afrikaner people felt insecure about: one was the problem of schools. You have to remember that our schools were separated, and we had to manage all the fears white people had about having black people in their schools. The second thing was local government. For some reason or other, Afrikaner people feared that if we took local government over, their lives would be over. So we organised it in three phases, and local governments became truly democratic only six years after the elections; we gave them some special concessions, and they were all contained in the interim Constitution. But the important thing is that it gave us a roadmap of how to organize the first free and fair elections and of which interim bodies were going to oversee them, we had to establish an Independent Electoral Commission (IEC). When we started to negotiate the final Constitution, all the Constitutional Court had to do was see whether the content of the final Constitution was compatible with the 32 principles contained in the interim one. The first time, they actually sent it back.

Participant: Who elected it?

Mohammed Bhabha: We agreed on it actually, that was an agreement. Also the IEC was agreed upon. Those were some of the political decisions that had to be taken.

Participant: I asked you about the size of the delegations, and you said 40. Of course 40 people cannot negotiate face to face, they were organised in committees. How many of those were assembled, and what type? Of course every country has its specifics in matters of conflict resolution, one should not assume that to have an agreement we need the same 40 people; this is the South African experience. This leads me to my second question: the first time DPI engaged in this endeavour in London, Jonathan Powell as well, after telling us about the process in Northern Ireland and the mistakes they had made, told us not to repeat them, and to make our own instead. But we can still draw lessons from both experiences. Now, what impact do you think the South African experience had on the settlement in Northern Ireland?

Roelf Meyer: The composition of our structures was led by the fact that we had six different theme committees. Each party had to allocate members from their delegation to those committees which were not all necessarily composed of politicians, many were technicians. We had lawyers, professors coming in to support. When I say 40 from each, they were spread out over six committees. I must admit that for some of the smaller parties it was more problematic because they did not have sufficient members to cover all the committees, so sometimes they had people serving in more than one. Clearly it was problematic from a logistical point of view, as we had to accommodate their needs, but that is how it worked.

Mohammed Bhabha: So, we are now talking about the final Constitution. We had 490 people elected, and we broke them into six theme committees: the first was the Bill of Rights; others were the Judiciary, the Nature of the State, Chapter Nine Institutions (Such as the Human Rights Commission, the Gender Commission, the Youth Commission, a Public Protector, and the Commission for Linguistics, Language and Culture), and so forth. To change anything within the Constitution, a two-thirds majority was necessary. The most important institutions are those that protect the Constitution: with the Human Rights Commission we might have not eliminated apartheid in the minds of the people, but at least nobody can act upon it publicly. In each theme committee there were about 15 people from different political parties; we also had academics and technical people who used to give us support in specific fields. In this way we settled on a number of the agreements discussed. Though we had two majority parties, almost all the parties were represented and all the agreements that were made were then processed through the Constitutional Court; whatever decision the Court would make had to go through the apartheid Parliament. All of this was done in public, but clearly when we had political issues and could not reach an agreement we would have to go behind closed doors in order to solve the problem.

Roelf Meyer: Concerning the last question you asked about our impact on the Northern Irish settlement, according to their own admission, when Gerry Adams came here in 1997 the parties were not ready to talk to each other yet. We took them to a private place close to Cape Town, where we stayed with them, and that was the first time they started talking to each other. According to their own admission that was a key moment.

Participant: During the first secret negotiations between Mandela and exile leaders and the Intelligence Agency, was there any foreign institution mediating? You said that when later on, public negotiations were about to start, important institutions wanted to mediate, but you declined. What were your motives for rejecting them? Finally, was any foreign actor trying to spoil the talks during negotiations?

Roelf Meyer: Concerning the way in which we approached the secret talks, I have to say that it all happened because of direct approaches by the South African Intelligence to Mr Mandela when he was in prison. When he was in hospital, that situation even provided an opportunity for the Minister of Justice to go to see him, with the excuse to see whether he was feeling well. The members of the Intelligence then started to initiate more direct initiatives and to engage with some of the exiles as well, but that was very secretive. Mr Mandela was not even aware of the approaches that the Intelligence was making to the exiles and vice versa, plus he did not necessarily share what he was involved in with his colleagues in prison. It would have been risky both for him and the South African government if it had been leaked at that stage. I was not aware that those talks were going on either, and I was the Deputy Minister of Police. The Intelligence did not even disclose it to the cabinet; only the President and the Minister of Justice were aware of it.

Participant: What were the bases of engagement?

Roelf Meyer: According to the report, it started off as reaching out, it was not about any fundamental issue, but through that, they

started to build a relationship and they developed the understanding that it would be possible to reach a potential agreement in future. It started to develop an appetite. Officially, it was to ensure that de Klerk was fully convinced that it was possible to release Mandela, to give him confidence. On the question about our refusal of other international actors, the reason is very simple, and it is that we did not trust anybody from outside. On spoilers, I have to say that we did not experience any. I think that when the process started the whole world was so surprised that all we got was support. Nobody tried to influence us not to do it, although there were a few Constitutional experts from abroad that tried to influence some of the parties with their views, on the possible Constitutional settlement. One of the parties that they tried to influence heavily was the Inkatha Freedom Party, and it was to their detriment.

Participant: You said that one of the most important factors was the inclusiveness of the process. Why did you need that inclusiveness? What would have been the result without it? Secondly, you said that for the first time you had Constitutional unity. Do you believe that the notion of ‘nation’ now could be created?

Roelf Meyer: I think that the concept of inclusiveness is quite fundamental, not only because of our experience, but also because of what I have seen observing other conflict situations. This was probably one of the most fundamental principles to be addressed: if one does not include in the negotiations all those who have an interest in the resolution of the conflict, it will never be resolved. To put it in simple terms, as Mandela always reminded us ‘you negotiate with your enemies not with your friends’. It was a simple way to tell us to be as inclusive as possible. As far as the subject of

nationhood goes, I just need to give a little bit of context. Up to halfway through our process, some people in the National Party and the white community thought that there was a possibility of finding a solution that could protect in some way, the superiority of the white community, in conformity with the old paradigm, and I can give you various examples of Constitutional proposals that were actually put on the table: one was that there should be rotating presidents, so as to ensure that they have veto power on each other. Fortunately we came to our senses; we realised there was no way we could go on with a Constitution that preserved our privileges. We are all equal before the law, and that is the basis of our Constitution. If you look at the fundamental rights contained in it, you will realise it is probably the most liberal set of fundamental rights you will find anywhere in the world. If you ask me today whether I think we have succeeded, I think we can say we have, because not only are these principles enclosed in the Constitution; they are also applied through the institutions that Mohammed was referring to. Every individual can appeal to the Constitutional Court for their rights to be respected. Inasmuch as we have an imbalance in Parliament, considering that the ANC has got 65 per cent of the votes while the opposition is much smaller, I think we still have the most public, transparent, and honest debates you could imagine. Lastly, I think there are certain moments when the notion of 'nation' is shown, in particular during sporting events. We had three world cups since the end of apartheid: the first one was the rugby world cup in 1995; then we had the cricket world cup in 2003; and finally the soccer world cup in 2010. All of those moments were important for the nation-building process here in South Africa.

Participant: Did you ever feel that the process could not succeed? And if so, did you have any 'exit plan'?

Roelf Meyer: We had no option; we had to succeed. The reason I say so is that the day Mandela walked out of prison we knew he could not go back, no government in South Africa would have been able to put him back in jail. We could only go forward and find answers. Sometimes we would move one step forward and two steps back; sometimes we would go to bed at night without knowing where to start the next the morning. But we could not go back. We could not rely on others to do it for us, we had the responsibility, and that consciousness was a very powerful drive.

Participant: Is there anything you wish you had done in a different way?

Roelf Meyer: I think that the biggest mistake we have made is that we should have started earlier. We could have started in 1985 as well; it would have been a good moment for it, and instead for five years we sunk into more and more violence. It took us five years to seize that opportunity, and the country lost a lot.

Mohammed Bhabha: I think we should have focused more on changing the power relations with regard to the economic context. A second thing I think we should have done in a different way is a Constitutional issue, and specifically the distribution of power within the state itself: the distribution of power to the provincial governments; I think we could have done it better, we should have focused more on efficiency rather than politics. If I had the opportunity to do it again, I would change this, because at the

end of the day it is affecting the new generations. Lastly, we are very proud of our institutions, but maybe we should have found a mechanism that would make them more accessible to the poor.

Participant: My question is for Mr Bhabha: did the ANC have an 'exit plan' from that of making the apartheid government unable to govern? Were the changes of mind of Mandela and that of the ANC parallel or there was there a difference between him and his constituency at the time of negotiations? Was there an alternative channel of communication between him and the ANC during his time in isolation?

Mohammed Bhabha: Concerning your last question about the channel of communications between Mandela and the ANC while in jail, tomorrow you are going to meet the man who was responsible for it. Secondly, the ANC would have supported him anyway. I am not sure whether it was a change of heart or more a matter of pragmatism; with the fall of the Berlin wall we found ourselves in a negotiating position of weakness, so we would have supported him no matter what. Regarding the question about the exit plan, I would say that we did not have a specific plan, partly because we did not have the military capacity to accomplish much more than civil unrest. Failure was not an option.

Participant: You talked about international Constitutional experts, and I wanted to ask you how were they trying to negatively affect the process? Do not you think that their experience could have been beneficial to the process? Also, can you name them?

Mohammed Bhabha: We did learn from the experiences of other countries, but we did not want other people to instruct us on what to do. Everybody has an agenda: the Americans wanted our Constitution to suit their views, the British and the Germans likewise, although we learned a lot from the Germany experience. The point is that in the end the solution was ours, we learned from them but took our own decisions. We went to India, to Portugal, to the United States; we went to the United Kingdom, where Scotland was an issue at the time. So we did learn from them, we just did not let them tell us how to write our Constitution.

Roelf Meyer: I am afraid I might have been misunderstood: when I mentioned that there were some Constitutional experts from abroad that tried to influence the drafting of our Constitution, I did not mean that I have a negative opinion of these Constitutional experts, I definitely do not. They were people that greatly helped; people of great value. Saying that we did not want to involve mediators or facilitators, does not mean that we would not listen to good advice. We went to seven countries, and I can tell you that you will be able to find things that we learned from each of them in our Constitution. It is very important not to close your mind to others, but ultimately the decision has to be yours.

Participant: Did white women have an independent organisation that influenced or contributed to the process?

Roelf Meyer: There were a number of instances in which white women were active in civil society engagement. Unfortunately they were not involved in the Constitutional process. I came to power in 1979 to a completely male Parliament; that was typically the

old South Africa. Politics were entirely dominated by men, and that situation did not change until we brought about the new democratic arrangement. Therefore you will not find a previously strong example as far as women are concerned.

Participant: If the government had not set Mandela free, do you think it would have still been possible to negotiate a successful agreement?

Roelf Meyer: Not really, I believe there would have been a civil war in South Africa if he had not been liberated.

Catriona Vine: Thank you very much, thank you to both our speakers for this incredibly informative talk.

Monday 6th May – Lunch with Ebrahim Ebrahim and Essop Pahad at KOI Restaurant, Pretoria

With

Ebrahim Ebrahim,¹³ Deputy Minister of International Relations and Cooperation.

Essop Pahad,¹⁴ Director of Vuziswe Media and Editor of The Thinker.

Venue: KOI Restaurant, Pretoria



Ebrahim Ebrahim and Essop Pahad addressing the delegation at KOI Restaurant, Pretoria

Mohammed Bhabha: Good afternoon. We have two highly esteemed gentlemen here with us today. To respect the protocol I will start with the Deputy Minister of International Relations, Mr Ebrahim Ebrahim, even though I am sure you will be more interested in listening about his non-governmental role, particularly

¹³ Ebrahim is the Deputy Minister of International Relations and Cooperation. He is a Member of the African National Congress (ANC) National Executive Committee (NEC) and a senior political and economic advisor for the President of South Africa.

¹⁴ Dr. Essop Pahad has been involved in the struggle against racism and apartheid for more than 50 years. He has held numerous political offices, as a member of the National Assembly from 1994-2008, Parliamentary Counselor to the Deputy President of the Republic of South Africa (1994-1996), and Deputy Minister in the Office of the former Executive Deputy President, Thabo Mbeki, (1996-1999). Dr. Pahad was appointed Minister in 1999 with specific responsibility for the Office on the Rights of the Child, Office on the Status of Women and Office on the Status of Disabled People in The Presidency, as well as the National Youth Commission and the Government Communication and Information System. He currently serves as the Director of Vusiwe Media, and as Editor of The Thinker.

prior to 1994. As you know, during our visit to Robben Island you will have learnt that, and he was there for 17 years. He was also part of our intelligence, and part of our military and strategic wing as well, and this is why I think he would be the most appropriate to answer a number of the questions you have asked regarding the armed struggle and what brought the government down. Next to him, is Mr Essop Pahad, who now, (apart from looking after his grandchildren!), is the editor of a South African news magazine called *The Thinker*. As you know, he was based in London with our former president Thabo Mbeki, and they initiated the discussion in South Africa with the apartheid government. Therefore, I am sure that he will be able to answer many of the questions you asked about the negotiation process, as he was a Minister in the presidency of Thabo Mbeki.

Kerim Yildiz: Thank you very much for finding the time to come here and meet us. This delegation from Turkey, consists of three political parties, including the main opposition parties, and the ruling party. We also have a number of journalists, academics and representatives of the civil society with us here. We are very grateful to have you here and to be able to hear some of your experiences. This trip is the continuation of previous Comparative Study Visits that we have carried out in different parts of the United Kingdom and the Republic of Ireland. Thank you very much.

Ebrahim Ebrahim: Good afternoon ladies and gentlemen. . Mr. Essop Pahad is the main speaker today, so maybe I can help by answering some of the questions you will ask.. We are happy to welcome you here and we are happy to share our experience of how we were able to create a democratic order in South Africa; how

we were able to negotiate and move from an apartheid, oppressive system to a new democratic one. Now let me leave the floor to Mr Essop Pahad. Thank you.

Essop Pahad: Welcome everybody; it is a pleasure to have you here. Mr Ebrahim and I have known each other since 1960, and we have served together on the National Executive Committee of the ANC for many years. I think it is good to have him here to answer some of your questions; if you have questions about the government today, what it is doing or not doing, he can answer that. Today I wish to talk about just two or three aspects of the negotiations, as you have already talked to a lot of people. I think that the most important thing, is that there is no direct correlation between different conflict situations: you cannot take one set of experiences and impose it on another situation and circumstance. The first important aspect is that from the ANC side, as soon as we understood and realised that the negotiations were going to take place, we took the position that they had to be as broad as possible and we tried to involve in the process as many of the political actors as we could. Of course we understood that the ANC was going to be the leading force and play a leading role, alongside the National Party, which was the ruling party at the time. Secondly if you enter negotiations, you then must be ready to accept compromise, even though you should also have a bottom line, marking those issues that are non-negotiable. On our side, we took a common position between the ANC, the Communist Party and others, and what was non-negotiable for us was that a process had to be initiated which would put us on the road to democratic elections, so that our people, for the first time in our history, would have the right to freely elect whomever they wanted to govern the country. That was

non-negotiable. As other issues came up we would examine them individually, in order to determine what we should or should not compromise on. That is an extremely important part of negotiating, the capacity to understand when to stay firm and when to give in. The ANC involved all the other parties that were close to us in every single part of the leadership structure of the ANC. We had very moderate discussions about the process itself, and about what we would need to do and to compromise in order to get something else. In my view, it is important for parties that are in the negotiating process to have very regulated discussions among themselves, especially within the leadership core, which would then have to go out and explain to their constituencies. I know you talked to Roelf Meyer and other members of the National Party. One of their biggest mistakes was that they never went back to their own base of support to explain what they were doing. Never. It is not in their culture to act in a democratic way. So it is very important that you do it, because if you cannot take your own membership with you it is will be much harder to reach a satisfying agreement. And you must remember that your membership is composed by a wide variety of people, who have different kinds of interests, so they will not always have converging opinions on the issues you will discuss. The question therefore is how you make sure that when you are actually negotiating important things you have the support of your own party membership. For example when we took the decision to suspend the armed struggle, it was really problematic. Fortunately the proposal was put forward by Joe Slovo and Ronnie Kasrils, who were the leaders of both our armed wing and the Communist Party. We knew that our people would find this decision very difficult to accept, and once we took it we then had to work very hard to convince our own membership that it was the right thing to do. We

had to organize a conference of the ANC, and for two days we had very hard and serious discussions. But we won that day, because we were convinced that that was the correct decision to make. The second lesson you should learn, is that you need to have the courage of your convictions: if you seriously believe that these are the steps that are necessary to bring about a negotiated solution of the conflict, then you must have the courage to stand for your conviction and defend it, winning people's opinion. That is what happened with our decision to suspend the armed struggle. Even after we suspended the armed struggle, though, we still needed to make some moves to convince the Nationalist Party of the seriousness with which we were engaging in the discussion. So we had to discuss and figure out what else we could possibly offer to the other side: they were the ruling party, but they knew that if elections took place they would inevitably lose power. You also must understand that we were operating in the most racist society in the world; apartheid was declared a crime against humanity and it was the fountainhead for world racism. The white minority population was essentially brought up to believe that they were superior due to the mere colour of their skin. Under these conditions we were understandably concerned about getting their support, because we knew that even though it would not be easy, we needed it in order to reach an agreement. We thus took a decision which we called the 'Sunset Clause'. Essentially, it revolved around two or three things: the first one was that, following the elections, we would have an interim Constitution. The second one was that the leader of the National Party, who happened to be de Klerk at that time, could be a Deputy President: Mandela would have the Presidency, and two Deputy Presidents would be appointed, one from each side. This was a very important compromise we made:

knowing that we were going to win the elections, we agreed to a broad national unity government which would also include representatives from the other parties. Furthermore, we understood that we were operating in a context in which the apartheid military machine and intelligence agency had still enormous power. At that time it was certainly the most powerful military machine in the continent, with great experience in warfare and some of the most sophisticated equipment. At that time South Africa was even a nuclear power. So not only had we to take the overwhelming majority of these people into supporting something that clearly was not in their interest, but we would also have to prevent some of them from engaging in counter revolutionary action of a violent nature. Thus, we decided that all the civil servants from the old apartheid regime would be integrated into the new civil service; none of them would lose their pension rights. They actually still have better pension rights than we do anyway. That was a way to try to soften the blow for people who were being asked to voluntarily give up their power or authority, which they knew they were not going to get back in a democratically elected government. That is why we adopted the Sunset Clause, which was also very difficult to explain to our constituency. I remember that during one of the meetings of the Central Committee, Harry Gwala, one of our friends who had served a very long time in Robben Island, came in spitting fire and venom against Joe Slovo, who at the time was the Secretary General of the party. We discussed it and let him talk for a long while, but in the end the decision had been made, and we thought that the General Secretary was correct and that the Central Committee should support this decision. So it did. Another issue we had to deal with was the great amount of violence orchestrated by the state, which was using non-state actors to carry out acts.

What we did was to accept an agreement called the National Peace Accord, which was designed for representatives from the ANC, the Communist Party, the Trade Union Movement, the National Party, and some of the other parties to meet on a regular basis in order to try to reduce tensions. For us though the main event was the election: but how do you go for an election in which the ruling party still owns all the power? So we decided to set up an Independent Electoral Commission: we found a much respected judge, judge Kriegler, who speaks Afrikaans as well, and we set up a multi-layer party forum, where all of us would meet. I was representing the ANC at that forum. Everybody would have papers that would allow them to vote, and essentially it was a relatively free and fair election. Of course it still had a lot of problems: there were areas to where the ANC could not even go, and the same goes for the opposition in other areas where the ANC was very strong, but the Independent Electoral Commission, which was seriously independent, gave the process that legitimacy that would have otherwise been lacking. And we also brought some people from outside South Africa to serve on the IEC, to give it even greater legitimacy. On the first day, though, many polling booths did not have the ballot papers: we do not know where the sabotage came from; they hired people from the private sector who created a disaster, so we had to reproduce thousands of ballot papers. We still managed to carry out the process in the end, because we were working together. After the elections, then, we started the negotiations in Parliament to draft the final Constitution. The last thing I want to say from my own experience is that you can draft Constitutions in many different ways: in our case, again, all the parties in Parliament were represented in what we called the Constitutional Committee. Even before that, we brought in legal

experts, some of whom you are going to meet tomorrow. In conclusion, these were some of the experiences from our side, in terms of the negotiation process and of the readiness to make some compromises when necessary. If you do not want to compromise, my advice to you is not to negotiate: if you do negotiate you must be ready to compromise. Thanks.

Mohammed Bhabha: Thank you, Mr Pahad. Mr Deputy Minister, do you want to intervene, or should we take questions?



*Kerim Yildiz, Nursuna Memecan, Ayla Akat, Cengiz Çandar,
Sezgin Tanrıku, Hatem Ete and Havva Kök*

Ebrahim Ebrahim: I would like to briefly intervene. Thank you very much; I think comrade Essop has covered all the main aspects of our transition in South Africa. But I just want to point out some other issues. You know that when Mandela was negotiating with the President of the time, FW de Klerk, he was moved from Robben Island to another place. There he was able to invite some prisoners who would be taken to him from Robben Island for the day, just to consult and share with them what he was doing. In

one of the documents that he wrote to FW de Klerk, he wrote that he wanted South Africa to be a fully democratic country, and that there should be no compromise on that. At the same time he recognised that within this democracy he would have to address the fear and the concerns of the white minority. This is why I was saying that conflicts like yours in my view are very unnecessary, because there is nothing that cannot be addressed and resolved within a fully democratic system. There are three or four things you need to remember from our negotiation: number one, it was fully inclusive; we never excluded any party. Some parties that were at the extreme left and right of the political system refused to participate, and were therefore marginalised in the process. Secondly, the negotiation process was very transparent: we could have met behind closed doors, the ANC and the National Party, and write our Constitution, but that would have not had legitimacy for the people. Everything was broadcasted on television and on the radio, so that people could listen to the deliberations. The third point was that, as Essop was saying, we involved civil society. We in the ANC established what was called the Patriotic Front. We invited to our first meeting 96 organisations: trade unions, women's organisations, cultural organisations and youth organisations, and we asked for their mandate. Throughout the negotiations we kept them informed of what was happening; if we had to make a compromise, then we also had to explain to them our motives. The last thing I want to say is that you need to have a strong leadership; one that has a vision, that is far thinking, and that seriously wants to resolve the conflict. You see, South Africa is a very beautiful country. One of the reasons I say so, is because I have never been able to understand why people fight over languages: we have 11 official languages, that is what makes South Africa so beautiful;

people can speak whatever language they want to speak. We are one nation with many cultures; we have four religious groups. We have a mosque here, next to the mosque we have a Hindu temple, and on the opposite side of the street we have a church for the Christians; they all live in harmony. So that is why I say that there is nothing that cannot be resolved in a democratic system with full democratic rights while at the same time accommodating different religions, languages and cultures. That is all I wanted to say. Thank you.

Essop Pahad: I must add that Deputy Minister Ebrahim was the leader of the ANC in the Patriotic Front.

Kerim Yildiz opens the floor to questions

Kerim Yildiz: I would like to ask two questions, related to one another. Looking back at the first stage of the process, how prepared were you to have negotiations with the national government? My second question is: towards the end, how did you deal with your armed wing? How were its members reintegrated into society? Did they get a job, or compensation?

Ebrahim Ebrahim: We were better prepared than the National Party. They were not as prepared as the ANC because even in exile we had already prepared our Constitutional principles. We were much more prepared than the opposition. For what concerns the armed wing of course when we dissolved it there was a reintegration with the apartheid army into the new national army. We also reintegrated our security into the new South African National Security structure, and we reintegrated our diplomatic

representatives in various countries with the Department of Foreign Affairs. I cannot think of any compensation that occurred, but we reintegrated them wherever we could. Of course they had to have the capability and the capacity, and many of them who had those even became Colonels and Brigadiers.

Participant: Did you have any particular channel outside of government control to communicate with Nelson Mandela during his isolation period on Robben Island? One through which he could convey his messages to you without any interference?

Ebrahim Ebrahim: Towards the end, when he was removed from Robben Island and was put in a place called Victor Vester, he was not in prison but in a house in the prison complex that belonged to one of the officers. He was not wearing prison clothing; he was allowed to wear his own. And he was also allowed to see whomever he wanted to see.

Participant: For how long was he in this place?

Ebrahim Ebrahim: That was in the last five years of his imprisonment. For instance, he would call us prisoners from Robben Island, and they would bring us there and leave us with him for the whole day. Now we have learned that all our discussions were tape recorded. But then he would also call some of the leaders in the country in the United Democratic Front, those leaders in overground organisations, to inform them that he was in consultation with Oliver Tambo, who was the president of the ANC. So there were channels of communication, and I think the nationalist government allowed it because they knew that it would

be in the end to their advantage, and that they should allow him to consult with other prisoners, with the leadership in the country, and that outside of the country.

Participant: May I ask you a personal question? Hearing you speak as such a moderate (politically), why did they imprison you for 17 years on Robben Island? What did you do?

Ebrahim Ebrahim: Well, I belonged to the armed wing of the ANC. I was arrested in 1963, as I had carried out a number of acts of sabotage. I was sentenced to 15 years in 1964 and served the full sentence until 1979. When I was released, I went into exile to Swaziland, and from there I was kidnapped. I was then brought back, tried for high treason and sentenced to 20 years imprisonment. But the important thing is that my lawyers took my case to the South African Court of Appeal, where five judges ruled that the court had no jurisdiction to try me, as I had been illegally brought in from a foreign country. Under South African law you cannot kidnap somebody and try them, it is illegal. Then I was released in 1991, but after I was released, all the other prisoners were also released because of the release of Mandela.

Mohammed Bhabha: But Mr Deputy Minister, you have not answered the question. He said you look like a really nice person, so why would they put you in jail for 17 years? Perhaps you are not what you look like!

Essop Pahad: He is a really nice person, but not for the enemy! He was a nice person for us. Let me say two things here: one is that in the beginning it was very difficult to communicate with our prisoners on Robben Island. But people went to Robben Island at

different times, so they always brought in new information. And when they were released, they would bring out information as well. Others learned how to write letters using some kind of subterfuge – since all the letters were censored – to try and deliver messages: for instance, they would communicate with Kathrada, and because he was like an older brother for us, we would write about family things, trying to smuggle messages in them. Thirdly, we used our lawyers, because they had the right to meet with the prisoners and could thus communicate writing on pieces of paper. They could not talk because they knew they would be recorded. When Mandela started the negotiations, we were not aware, just as Mandela was not aware that some of our people, especially Mbeki and Zuma, our current President, had their own contacts with the South African security establishment to open the doors to negotiations. He did not know we were doing it, we did not know he was doing it; Mandela kept it a secret even from his closest comrades in Robben Island. The most interesting and remarkable part of those negotiations is that though we never spoke to each other, Mandela's position and the position we took outside in terms of the negotiations coincided on almost every single point. Only the regime knew who they were talking to, and they had to realise that there was something remarkable about the ANC: we did not have to meet to come to common positions because we were standing by our own principles. Lastly, from the beginning Mandela recognised that the leader of the ANC was not himself, but the president of the ANC Oliver Tambo. And he deferred all major decisions to Oliver Tambo and the National Executive Committee of the ANC which was based in Lusaka, Zambia. So it was accepted that all major decisions had to be made by Oliver Tambo and the National Executive Committee. And that is how we managed to work together. Thank you.

Kerim Yildiz: Thank you to both our excellent speakers for what has been a most valuable meeting. Your presentations and your first-hand experience have provided us with very interesting insights into the process. Good afternoon.

Monday 6th May – Session 6: Meeting with Deputy President Motlanthe, Union Buildings, Pretoria

With: Kgalema Petrus Motlante,¹⁵ Deputy President of South Africa.

Venue: Union Buildings, Government Avenue, Pretoria

Moderated by Kerim Yildiz



*The delegation with Deputy President Kgalema Motlante
at the Union Buildings*

¹⁵ Mr Motlanthe served as President of South Africa between September 2008 and May 2009, following the resignation of Thabo Mbeki. After the end of his presidency, Motlanthe was appointed as Deputy President of South Africa by his successor, current South African President Jacob Zuma. Motlanthe served as Deputy President of the African National Congress (ANC), a position he held from 2007 until 2012, when he declined to run for a second term. Motlanthe was previously a student activist, trade unionist and member of the ANC's military wing Umkhonto we Sizwe during the struggle against South Africa under apartheid. Today, Motlanthe, a left-leaning intellectual, is seen as a highly skilled political operator within the politics of South Africa, and a key figure behind the success of Jacob Zuma. Motlanthe also holds the status of having been South Africa's first Tswana-speaking president.

Pretoria is one of South Africa's three capital cities, serving as the executive and de facto national capital. The Union Buildings, sitting on Meintjies Kop and overlooking the city of Pretoria, form the official seat of the Government of South Africa and also house the offices of the President. The Union Buildings are over 275m long and boast a semi-circular shape, with the two wings at the sides which are said to represent the English and Afrikaans languages.

Kgalema Mothlante: I extend a warm welcome to all of you today. Here in South Africa we have a very good relation with the government and the people of Turkey; I have been to Turkey myself and of course I have interacted with the government, and I have also visited Parliament there on two occasions. Of course it was not in session at that time, so I am particularly pleased to have this exchange with you today. As you have already met many people during this visit, I think it may be helpful to start directly with your questions, so that we can respond to what is most of interest to you. Please, feel comfortable asking about any critical issue, which may be of interest.

Participant: As a ruler of this country, when you look at your society and your politics do you recognise any social and economic baggage from the apartheid years?

Kgalema Mothlante: Well, we have been a Constitutional Democracy only since 1994 and this was the outcome of 82 years of struggle waged by the African people, who had been excluded from the main body of politics since 1910, when the Union of South Africa was founded. Throughout the 82 years of its existence, it has waged peaceful struggle sending delegations to the colonial headquarters in England at the end of the First World War, to

ensure that the plight of the African people would be taken into account. It continued for almost 50 years with various forms of non-racial struggle, up to the 1960s, when the apartheid government outlawed it, together with a number of other institutions, among which was the ANC too. Of course the ANC still continued to exist surreptitiously for 30 more years, until it was unbanned in 1990. Between 1990 and 1994, it engaged the government of the time in negotiations for a peaceful settlement to the conflict, which was the result of these exclusive racist and discriminatory policies. Through negotiation and inclusiveness a government of national unity was established, which agreed that its main task was to agree and adopt a democratic Constitution. By 1996 the current democratic Constitution was adopted. The ANC has been the governing party since 1994, and part of its programme has been to transform the previous institutions into democratic, non-racial ones meant for all South Africans. Today, as we sit here, we have had 19 years of this democratic dispensation. Of course the accumulated disabilities in the areas of education, health, as well as in the social and economic infrastructure still reflect this past history of discrimination: to accomplish our project of building a united, democratic, non-racial and non-sexist state, we still have a long way to go, but at least the legislative framework is a democratic one. We have got rid of all laws that would discriminate; the legal framework underpins this kind of united, non-racial, democratic dispensation. But of course in economic terms – in terms of ownership and income distribution – it still reflects the past allocation of resources, and that is why we are concentrating all of our efforts on transformation: transformation of education, of economy, of all aspects of life. This is the first generation of democratic South Africa, so of course the scars of the past are still very much with us. Thank you.

Participant: Thank you very much Your Excellency. I am very happy to be here in such a beautiful country, and I am sure that, as we leave, we will keep it in our hearts. The ANC is now the ruling party, so what is the biggest problem that you are facing as a government and that you are currently working on?

Kgalema Mothlante: As I said, we have the challenges of education and infrastructure, which reflect the past history of discrimination. If you look at South Africa, you will see that there are parts of the country that are well developed: it was possible for us to host the World Cup because the infrastructure were in place. On the other hand, in the peripheries the infrastructures are under developed or non-existent. We essentially face three major challenges: poverty, inequality and unemployment. We have a population of about 50 million people, and 4.6 million of them are unemployed. This is a major issue for us, and as the government we are engaging with the private sector in order to find ways to face these challenges by creating new jobs. We have created a democratic structure for it, which includes labour unions, civil society and businesses. The problem we have in the area of education instead is that of access. At the entry level we have 96 per cent of enrolment, and we are trying to ensure that the remaining four per cent will jump in too. The difficulty though is that when they pass on to twelfth grade, very few of them go into tertiary education. We are extremely concerned with this. We are trying to find a way to ensure that the same number of students that enrol in entry level go through twelfth grade into tertiary education. Thank you

Participant: Mr Deputy President, I should say that I have always shared deep sympathy for the people of this country and admiration

for the ANC. Having said that, I do not want you to be offended by the following question. Governing in a post-revolutionary period sometimes is more difficult, and as you said this is the first stage of democratic South Africa. Despite this, the ANC's support does not diminish below 65 per cent. Following President Nelson Mandela there has been President Mbeki; after him it was known that he would be – and he was – followed by president Zuma, and it seems you will be following, Mr Deputy President. Are we seeing a dynasty of the ANC? How will the formative period of democratic South Africa evolve in consolidating democracy?

Kgalema Mothlante: Here in South Africa we have a multiparty system. The ANC now holds 64 per cent of the seats, but it has never governed all of the country: we have nine provinces and throughout the years, even if we won the national elections, we have generally won in eight of the nine provinces. In the Western Cape we have lost both the municipality and the province to the Democratic Alliance; we are gaining experience as a governing party on one hand and as the opposition on the other. We do not take the mandates of the electorate for granted: next year we will be going into elections, both national and provincial, which means we will have to start our electoral campaign, going house to house to visit people and listen to what they have to say. That is how we conduct our campaign; the people do not only have complaints but they also have suggestions, providing us with very important feedback. That is why we rely on this approach of direct contact. I am not in line to become President. I have already served as the President of South Africa; I am the one who followed President Mbeki and preceded President Zuma. Now I am his deputy, and we have a wonderful relationship. He has served as a Deputy President as well, so we can share our experiences and help each other.

Participant: We have been here for a week now, and we have seen a lot of things that I admire concerning the reconciliation process and the Constitution that has subsequently been written. Personally, I do not hold any doubt that this process might be a model for other processes. Regarding the period of the transition though, do you believe that you have managed to create unity between the white and the black communities in the last 19 years, or are all the groups living together still without interacting with each other in many areas?



*The delegation at the Union Buildings during a roundtable meeting
with Deputy President Motlante*

Kgalema Motlante: Our mandate was to create a united, democratic, non-racial, non-sexist, and prosperous South Africa. The reconciliation of all the parties that in the past were in conflict has laid the foundation for us to move forward as a democratic country. From time to time we still do experience some reluctance, because many people rely on racial categories to explain the current state of affairs. On the other hand, the problematic nature of regarding people as black or white is something that is widely understood by the majority of the population because it is embodied in the Constitution; everybody understands that they have no right to discriminate against anybody. In a sense, we are making steady

progress, but tensions do arise from time to time, especially due to the problem of unemployment. As I said, it is a huge challenge to us: about three million of unemployed people are between 18 and 24, and they are not in any kind of institutional plan or in a job. When you have young people that have all the energy to work but are instead unemployed, you are likely to also have tensions from time to time, because whenever there is a public concern those people would be the first ones to demonstrate. However, that is not a threat to the project of creating and sustaining peace and harmony across the board. The slogan of the ANC is that we are united in our diversity: everybody has a right to practice his or her culture and religion, but ultimately we are all South Africans; we are all governed by our Constitution. Thank you.

Participant: Mr Deputy President, thank you for being here and for sharing your opinion with us. Please, first let me say that I recognise all your successes and achievements. During this visit, though, we have experienced a great deal of racial divide in South Africa; apartheid is over, but when you go to restaurants around the country you can still see that the people serving are overwhelmingly black, while those being served are generally white. What have you done, and what are you still doing to address this problem?

Kgalema Motlante: Let me give a little background to where we come from: we come from a background of racial discrimination, where white people, through the Nationalist Party, believed in the notion of white supremacy. In 1955 the ANC, the South African Indian Congress, the South African Congress of Democrats, and the South African Congress of Trade Unions, organised a convention where all the political parties were included, even the National

Party. Of course they did not send any delegation; they only sent the police to arrest everyone. By the time the police arrived, though, they had already agreed on a very important document: the Freedom Charter, which was then adopted by the ANC and all the other democratic organisations. Its fundamental principle was that South Africa belongs to all those who live in it. On one side, then, you had the whites believing in racial discrimination, while on the other you had the ANC calling for non-racialism rather than black supremacy. For that reason, in 1956 the government arrested 166 leaders and charged them with treason, as claiming that blacks and whites are equal human beings was considered to be treason. The trial lasted for four years, but in the end it had the opposite effect: it gave visibility to the notion of non-racialism, promoting it and consolidating its acceptance. When the ANC was banned in 1960, younger generations used the Freedom Charter as a political pamphlet; young people read it and were brought up on a political diet of non-racialism. That is why reconciliation was not difficult: it was a goal shared by the majority of the South African people, and by 1990 the very Nationalist Party, which had previously regarded it as treason, embraced the Freedom Charter. It is embedded into South Africa culture to such an extent that the opposition parties are accusing the ANC of deviating from it. Today younger people go to mixed schools where they become friends, so they do not experience this culture of racialism. However, income distribution and skills still reflect the past, and that is why, if you go to restaurants in the suburbs, you may well find that the main chef is a black person and so is the cashier, while the restaurant is owned by white people and the clientele in the south would be mostly composed of white people.

Participant: Your Excellency, first of all thank you very much. I have two questions: first of all, the Constitution has an article that states that everybody is equal in this country, but it also recognises that this equality should be protected. If you did not have this protection clause, what would be of South Africa today? Secondly, the ANC came to power paying a very high price; it has a very important connection with the past, and with the comrades who lost their lives for the cause. Since 1994, has being in power changed the ANC?

Kgalema Motlante: The spirit of our Constitution is to transform: we must take our history into account, and transform society into an equal democratic one, as in terms of access to basic education and income distribution it still reflects the old structures of power. The Constitution affirms that we must transform these injustices, and for this reason it also contains a Bill of Rights, which provides for what we call 'first generation rights'. You spoke about protection, which is enshrined in the Constitution itself: we cannot pass a law that does not comply with it. To give an example, if there is a bill that somebody feels would prejudice freedom of expression, that law would not be ratified before being checked by the Constitutional Court; we have systems of checks and balances. Concerning your second question, when the ANC was still a liberation movement the people who became members were people who expected no personal rewards, in the sense that they knew they may end up in prison or in exile, or even killed. Their inspiration came from the love for the South African people and from their commitment to the liberation struggle. When the ANC was unbanned and became the governing party, though, that all changed, as to be in the ANC and in a position of leadership now also entailed the possibility of rewards at a personal level. Thus

many of the people who joined at this point did so because it was the best thing to do, because they would be part of the ruling party and have good connections. Of course this all affected the ANC. In our lingua franca we call these the 'sins of incumbency'; the ANC could not sufficiently protect itself from it, and this is what we are dealing with on an ongoing basis now. Whereas in the past the internal democratic practices were excellent, now they are not. Just to give you an example: the banks have an interest in who will be appointed as Minister of Finance, since if they are friendly towards him they might stand a better chance of being allocated the responsibility of managing social grants. We are not immune to those influences. The front line soldiers of corruption are gifts: when people want to corrupt somebody, they give him or her gifts; you therefore need to have a policy concerning what happens to gifts, as a public representative should never be indebted to people who have personal interests in his work; that is how corruption takes root. Thank you.

Participant: I would like to ask three questions: first of all I understand that the racial line has shifted, however given that your government has a left leaning, is not it a huge dilemma to speak in the name of the oppressed class while operating in a system based on a liberal economy? I would also like to ask if those security guards that shot dead 34 mine workers who were protesting at the Marikana mine complex last August are being prosecuted and brought to justice, and what happened to them. Lastly, we always hear about these new conglomerations of power such as, Brazil, Russia, India, China and South Africa – the BRICS. Do you think this represents a new redistribution across the globe or is just a second instance of capital accommodation?

Kgalema Mothlante: Let me deal with the first question of convergence of racial and class divides. Of course in South Africa these two have converged, because of our history. What has happened in the last 19 years is that even though the rich have grown even richer, a massive middle class has come into being, particularly among blacks who in the past were excluded from even being involved in a business in white areas. Now we do not have such restrictions. Today every black person that has the means to set up a business in town is allowed to do so, and a huge middle class has developed, as opportunities in both the private and the public sectors are now there for skilled black people. In the past, the most brilliant blacks only had access to three areas of study: law, medicine, and education. This new middle class is the one that determines which way the politics swing. Having said that, about the specific case of the mine workers who ended up being shot by the police last August, I can tell you that there is a commission of inquiry which is looking into that situation; and once they have produced a report and made their recommendations the government will act accordingly. Lastly, BRICS is an alignment put together by Morgan Stanley. The G8 and G20 have made huge mistakes as power brokers: the financial crisis of 2008 was triggered by the fact that the trade in the money market was 68 times bigger than the trade in commodities. It was clear that the economic system was not really underpinned by a real economy, and consequently we bore witness to banks going under and the G8 struggling to rescue them. Europe is still struggling to find a solution to these challenges even today. Analysts at Morgan Stanley realised that what initially were the BRICs, were growing economies, and so they thought that, if these countries cooperated, maybe they could pull the rest of global economy out of the crisis.

In Africa, South Africa accounts for almost 50 per cent of the trade in the whole continent, and because of our history we have the best managed banks in the world today. An infrastructure like that was seen as a gateway into Africa: the rest of the continent is underdeveloped, full of resources but with no infrastructure, and as the BRICs saw their growth progress in Africa they recognised the potential advantage of including South Africa in the BRICS. Today when we assess the investments of Brazil and China in Africa, they are bigger than ours. Africa, though, manages to speak as a block, as we operate within economic communities, meant to create the critical mass requirement for interstate trade. As individuals, the African countries would not know how to deal with such a huge market as the Chinese one. As a block, our approach is to produce goods that can be exported into these markets. Thank you.

Kerim Yildiz: Mr Deputy President, thank you very much once again for receiving us and for providing us with such valuable information and views. I have no doubt that this will be very helpful for us, and we will very carefully consider all that we have learned about development here in South Africa. Thank you very much.

Monday 6th May –Dinner at Kream, Johannesburg

Venue: Kream Restaurant, Johannesburg



Kerim Yildiz with Ambassador Esener and Roelf Meyer

Tuesday 7th May – Session 7: Meeting with Moe Shaikh at the Development Bank of Southern Africa, Pretoria

Presentation and Roundtable Discussion:

The role of security structures during negotiations

With:

Moe Shaikh,¹⁶ Chief Executive Officer of the International Division of the Development Bank of South Africa and Former Head of South African Intelligence Services.

Venue: Development Bank of Southern Africa, Pretoria

Moderated by Mohammed Bhabha

¹⁶ Moe Shaikh is the Chief Executive Officer of the International Division of the Development Bank of South Africa. He previously served as the Head of the South African Secret Service. Shaikh has served in the internal underground structures of the African National Congress where his duties involved the collection and analysis of intelligence at the coalface feeding into the African National Congress headquarters in Lusaka. In 1994 he was part of the Transitional Executive Council team that facilitated the amalgamation of services into the new dispensation of intelligence. Previous posts and achievements include: South African Consul-General in Hamburg (1998), South African Ambassador to the Democratic People's Republic of Algeria, Special Adviser to the Minister of Foreign Affairs and Head of Policy Research and Analysis Unit (2003-2004).



Moe Shaikh with members of the delegation

Mohammed Bhabha: Good morning everybody. I am pleased to introduce you to my mentor, my friend, and my superior here at the Development Bank of South Africa, Moe Shaikh. When we went to Robben Island earlier this week, many of you asked about how the ANC transferred its intelligence information. Moe Shaikh was responsible for setting up the network between Lusaka, Robben Island, and London. He was also responsible for the disarmament and integration of the military forces.

Moe Shaikh: Welcome to all of you. Let me begin by saying that security and development are two sides of the same coin; you cannot have one without the other. For the first 30 years of my life I worked in the field of security, for the second 30, instead, I want to work in that of development. So that is why I am here, at the Development Bank.

Moe Shaikh: So, I was asked to share my experience of how we moved from conflict here in South Africa to some kind of 'unquiet' peace first, and then towards peace. I have heard that you met the Deputy President of South Africa and are going to meet the Secretary General of the ANC. Both Mohammed and I are longstanding members of the ANC; I joined when I was 16,

and now I am 54. I was trained by the Stasi, the secret police of East Germany, as I was living there before coming back into the country. During my diplomatic life I spent some time in Hamburg as well, where I had the pleasure of meeting the Turkish community; with them I tried your very nice soup, the *işkembe*. But now let me take you back to South Africa, in 1985: the ANC inside the country was escalating its civil war, and the apartheid government was repressing it using its military forces to fight the civil uprising. A state of emergency was declared, followed by a second one in 1986. Thousands of people were being detained and killed, and a very important point was reached in South African society: the apartheid government and its military came to the realisation that to win they had to kill more people, and the ANC came to the realisation that to win it had to kill more people. When both sides came to this understanding, we had an instance of what in security terms is called 'dual power': one side does not have the authority to exert its power on the other, and the other is too weak to win. When you reach dual power, both sides have to answer one fundamental question: what price are you willing to pay for your victory? A good example of dual power is the current state of affairs in Syria, where the rebels are not strong enough to win and the Assad regime is not strong enough to defeat the rebels. That situation cannot continue for too long; whether there has been or will be chemical weapons use, the United States will end up entering that conflict one way or another in favour of the rebels. When we reached dual power in South Africa, something had to be done; someone had to make a move. It was in this context that a group of Afrikaner leaders reached out to the ANC in 1987 to test whether they were willing to negotiate. Of course the ANC was very receptive, and its intelligence services and those of the apartheid government started to have a dialogue. The first talks

took place outside of South Africa, in Switzerland (where activists in exile such as Zuma, Mbeki, Aziz, and Pahad were flown with false passports) and both sides accepted that a negotiated solution was possible. When the negotiations started, there was a general agreement that they must take place inside South Africa. We resisted the call from other countries that wanted to host them, just like the British are currently hosting talks on Somalia in London; it was a conflict within South Africa and therefore it had to be solved here. This was a crucial point in negotiations: we found it was better to conduct our negotiations in our own country, so the South African people themselves could determine the pace of the negotiations; when you have negotiators and third parties, instead, the process is detached from the people on the ground. We did not want it to be a transfer of power from one to another group of elites; we wanted to establish a paradigm for the people to live and move forward in peace. By 1987 the ANC took the decision to increase its offensive against the apartheid regime through what was called 'Operation Vula', which consisted in combining various movements in a single formation. Many of the leaders who were thought to be in exile outside of the country were actually in South Africa, as it was better for us to hide them here rather than having them crossing the border illegally to come back. Once the ANC was unbanned in 1990 and the negotiations started, the important element that had to be figured out was that of inclusiveness: how do you get as many parties as possible to take part into the negotiations? Many political parties were believed to have wide popular support, so the ANC and the National Party agreed to include them in the process. In the end, then, we had about 20 parties, even though everyone knew that it was just the two main parties that really mattered. So they designed a term that has now entered the vocabulary of negotiations, 'sufficient consensus': the agreement of the two most

important parties was both sufficient and necessary to move on with the process. This was a very important point. Let me give you an example: one of the parties which claimed to be a very powerful party was the IFP, a Zulu nationalist party. As it did not agree with some of the issues, it decided to pull out of the negotiations, as the process had continued thanks to the sufficient consensus between the ANC and the National Party. When it came to the elections, the IFP agreed to participate only one day before they were to be held and, not surprisingly, they lost. Many parties believed that they could hold the negotiation process to ransom. When you enter negotiations, though, you do not want a side to surrender. That is not a negotiation: if you want the other side to surrender, it would be better to continue the war and defeat it militarily. Negotiations change the very nature of what you are negotiating about: if you think that a whole is better than a sum, you will probably end up reconceptualising the idea you had. Those who are successful in negotiations are those that are flexible enough but still do not lose sight of the ultimate objective. The principle we held on to was that we wanted to live in a united, non-racial, non-sexist, democratic South Africa. First, we wanted one country. When the Zulu party wanted to have its own nation, we refused it, and we did the same with the Afrikaners that asked for a separate state. This was a most important principle. Secondly, by non-racial and non-sexist we meant that there should be no discrimination based neither on race nor on gender. Lastly it had to be democratic; we wanted to have free and fair elections based on one person – one vote. This is what we wanted to achieve. When we stated our principles, the National Party claimed it did not have the mandate to negotiate these things, because white South Africans would never support this outcome. We could have given up, but we did not. We sent them out to go get their mandate: a referendum was conducted in

which only white people participated. Only if you have lived in a society oppressed by race discrimination will you be able to fully understand how great of a concession it was from the ANC to allow white South Africans to determine the fate of black people. This concession, though, trapped the National Party: 75 per cent of the white South Africans who participated in the referendum agreed to start the negotiations. We had very clever use of tactic and strategy; imagine it we had not been willing to allow whites to decide of our future: the negotiations would have failed. Even if it meant discrimination, as no one asked the blacks for their opinion, it was based on the assumption that we had to bring the other side into the process. Having done it this way, they could never withdraw from the process.

I now want to move on to talk about some other important things, particularly about the military. In every conflict we militarise our society: we have an army, we give them a budget and leadership, and we ask them to engage in war with the other side. In the South African conflict there were two militaries because we had to form our own army and guerrilla groups. The problem is that, while it is rather easy to convince a person to fight, it is extremely hard to then tell that person to put the gun down: in such contexts, the military always obtains certain rights and power, and it is this power that is very difficult to remove when you are going through a political process. This is why you have coups d'état. I was involved in the negotiations to form one police, one military and one intelligence service; we had to move from many into one. The first principle in dealing with this kind of thing is to have a united political perspective on the role of the military and on the use of budget: if there is none, you will end up with the military lobbying the politicians, not to make concessions. Here in South Africa we were united in

the belief that the military should not be involved in the political affairs of the country. And if you want a very good example, just look at Chapter 11 of our Constitution: there you will find all the precepts concerning the principles that govern national security, the military, the police and the intelligence services. We are the first country in the world to include this in its Constitution, and we did so because of the role the military played in the apartheid struggle. When there is a high degree of conflict, the military gains rights and prerogatives; how do you get the military to move down to a democratic accommodation when the conflict is low? No one surrenders power easily, so we had to move forward step by step: for the first five years we changed neither the structure of command, nor the budget. What we did, was first of all to put deputies to each of the officials in power, which was not a move greatly welcomed by the ANC's military, but we had to compromise. Secondly, we created a civilian secretariat to oversee military spending. We basically sought political control of the military, and neutralised it by inserting our people within the chain of command; it did not take long before they started to build a new culture. Only after five years did we start to change the command structure of the military; while in the past the possibility of a military coup was seen as a serious threat, now nobody would ever think of it. We have had three black people fulfilling the position of Military Chief so far; the first one was in 1999, five years after the elections. The same happened within the police and intelligence forces. This is the paradigm we employed; it was not an easy prospect of course, no negotiation goes smoothly and might have two steps back and one forward. You will always be dealing with tensions. You need to have the right people in place for the process to work. To use a metaphor, we could say that there are hawks and doves: when the doves can come together they are able to bring peace, while when

the hawks come together they can derail the process. So the key to success is to always keep the doves involved in the process, and it is not always simple to figure out who is what. Thank you.

Mohammed Bhabha opens the floor for discussion

Kerim Yildiz: Could you talk about the role of the diaspora in conflict resolution?

Moe Shaikh: This is a very good question. Here in South Africa the diaspora was very connected to the anti-apartheid movement and they became very involved in it, but the key player in the negotiations was the ANC. Even when its key leaders were in exile, the ANC maintained its hegemony. The diaspora played a very big role in support, policy advice, and so forth, but it is not a political organisation per se: when members of the diaspora want to participate in the conflict resolution process, they must do so from within an organisation that operates in the political system. Let me give you an example: since the problem here in South Africa was mainly a racial one, many African-Americans believed they could come here and tell the ANC how to deal with the process. But why would an African-American know better than us, who have lived and struggled in this country? The problem with diaspora is that its influence often turns out to be the influence of the host country. I think it has a huge role to play, but it should be the political parties that decide on that role, you should not let the diaspora decide it themselves.

Participant: Could you talk about the role of the Muslim community in the liberation struggle? And also, what are you

doing in order to bring about economic development here in South Africa?

Moe Shaikh: The Muslim community in South Africa has been very much involved in the liberation struggle; they contributed in an enormous way. There have been two religious groups that have contributed to the struggle disproportionately to their numbers: the Muslim community and the Jewish one. When I say 'disproportionately to their numbers' I mean that even though the population of South Africa is composed of only about 1.5 per cent to 2 per cent of Muslims they were greatly engaged in the struggle and the same can be said of the Jews. On the other hand though, both groups are extremely well represented and can be seen in a lot of public offices. For what concerns your question on economic development, I have to say that being a developing country we use our resources in a very smart way to address the three fundamental challenges that South Africa is currently facing: the first one is social inequality, meaning that the rich are growing even richer while the poor keep getting poorer. I am aware that this is a global phenomenon, but here in South Africa it is a huge problem. The other two major challenges we need to deal with are poverty and unemployment, and from the State side we have been greatly engaged with these issues. The Development bank plays a major role in this, and it does so by focusing on infrastructure, such as transportation and water: we want to lay the foundations for the economy to grow. It is not an easy task, and this is the main reason why I moved from security to development: while it is easy to control a hundred thousand soldiers, it is very hard to change the lives of a hundred thousand people. But we are very committed to those principles.

Participant: thank you, you said a very important thing: it is easy to equip somebody with arms and push him to fight, but it is much harder to then convince him to put those weapons down. In your experience, how important was the role of the leadership in convincing soldiers to give up the armed struggle?

Moe Shaikh: I spent a lot of time with the Turkish and Kurdish community in Hamburg. I can say that the role of a leader is crucially important. Let me give you an example: there was an occasion when one of our senior leaders, Chris Hani, was assassinated here in South Africa during the negotiations. The country was going to explode, there was going to be black against white violence; people were starting to burn houses. This was in 1992. It was that day that Nelson Mandela became the de facto president of the country: he went on television and addressed all South Africans. The role of leadership is crucial: he asked everyone to stay calm and informed everyone that the person who had reported the killing was actually a white woman, thus defusing the racial component of the issue. The people listened. In a crucial moment, he could have seized power, but did not do that. I have borne witness to the wisdom of many leaders changing history over the years; I greatly value the role of leadership. It can be a very lonely role, as sometimes a leader might have to make unpopular decisions. Authentic leadership is something you should always value. Thank you.

Kerim Yildiz: Thank you very much; the lessons that we have learnt today are extremely important ones. Thank you for hosting us here and sharing with us your experience, it is greatly appreciated.

Tuesday 7th May – Session 8: Meeting with Baleka Mbete, ANC Headquarters, Johannesburg

Presentation and Roundtable Discussion:

The ANC – from a liberation movement to a political party

With:

Baleka Mbeke, National Chairperson of the ANC

Jess Duarte, Deputy Secretary General of the ANC

Obed Mapela, Deputy Minister for performance Monitoring and Evaluation of the Republic of South Africa

Ms Moshodi, ANC Representative

Venue: ANC Headquarters, Johannesburg



The delegation at the ANC Headquarters

Mohammed Bhabha: Welcome everybody to the ANC headquarters. This morning we have some very distinguished speakers, who will be able to answer all your questions about the political transition of the ANC from a liberation movement to an actual political party, as well as your questions about the party's current work.

Baleka Mbete: Thank you Mohammed; I would like to thank and welcome our guests here to the ANC headquarters. I would also like to introduce the delegation that is here with me. I have to admit it is not always easy, to remember my colleagues actual names, as in exile we all had different names and it is complicated to readjust! On my right side is Jess Duarte, the Deputy Secretary General of the ANC. Next to me on the left, is comrade Moshodi, and next to her there are Roelf Meyer, whom you all have already met, and Obed Mapela, the Chairperson of the National Committee of the ANC on International Relations. He also has a full time job as Deputy Minister in the presidency, but here he leads this subcommittee. We all would like to welcome you to this building. We are aware that you have met a whole range of people and that you have had a lot of information already, so we think it would be best to just tell you something about the ANC and then let you ask us your questions on anything else you would like to talk about. In this very boardroom the members of the ANC meet every Monday morning at 10.00, including the President and the Deputy President, except when we are in different parts of the country. Let me now give you a summary of the structure and functioning of the ANC: the highest organ is the National Executive Committee (NEC), which has the responsibility of leading the organisation. It is elected every five years by our highest decision-making body, the National Conference. We ensured a very strong local presence by the institution of Regional and Provincial Executive Committees, which are elected by the representatives of the branches in the regions and provinces. The branches themselves are lastly the basic units of the ANC, those that allow us to grasp the needs and feelings of our constituency. They annually elect their Branch Executive Committee. This structure helps us to stay on top of

issues and challenges that we as leaders are expected to solve; it lets us lead our people properly, implementing the policies that they have supported by electing us. We also have a Women's league, a Youth league and a Veterans' league.

Participant: How many people are there in the National Working Committee?

Baleka Mbete: 22. May I now allow the leader of your delegation introduce you?

Kerim Yildiz: Thank you very much; we are very honoured to be here and to listen directly to people who have been part of the South African struggle. Our delegation is composed of members of three political parties in Turkey: the two main opposition parties and the ruling party. We also have a distinguished group of academics and journalists to represent civil society, and we have three 'wise men' who have been recently appointed to address the main issues concerning the conflict. As a matter of principle, we are all here to carry out a comparative study that will help us discuss and potentially resolve our internal issues. Thank you for giving us this opportunity.

Kerim Yildiz opens the floor for questions.

Participant: Throughout our visit we have listened to so many things related to the South African experience. My question is what kind of changes did the ANC have to undergo after 1996 in terms of party structure, language, discourse, and organisation? Was the passage from an illegal organisation to a political party a difficult one?

Participant: Dominant parties are often not seen so sympathetically, because the rulers might get caught in the routine, and society might grow to dislike them and withdraw its support. What measures have you taken in order to keep your dynamism throughout these 19 years? Do you believe you still have the necessary freshness?

Baleka Mbete: What changes we have faced, how the party has reflected the changing conditions, and what it takes to keep dynamism in the leadership. The answer to these questions is that of course nobody can guarantee for how long parties will remain attractive for the electorate, as the conditions on the ground change. However we can tell you, on the basis of our experience over the last 19 years, that as the ANC has put before the people a manifesto, presenting itself in terms of policies that address the issues that are challenging our country, the people have supported our policies and have voted for us again and again. We are not claiming to be perfect. Being in office is a totally different terrain from what we were used to: when we arrived in Parliament it was very weird for us, as we were used to be standing outside of it demonstrating, screaming and throwing stuff; it takes time to adjust and to transform. Neither could we avail ourselves of instruments that had been geared to achieving something totally different; we had to change them. Now we have completely different challenges and priorities, in particular the social and economic conditions in which our people live. The ANC has found that it has to keep asking itself what needs to be done, and this is why for us the branches are the most important part of the ANC: being extensively present on the ground, they let us be constantly in touch with our people; we need to be with our people. When we talk about the challenges faced by the communities, then, we are informed about them by

the very people that live in those communities. Every five years we have a National Conference, which is representative of those more than 4,000 branches, where we decide who is going to lead the party. There is no one that just sits around occupying these chairs every Monday, unless our branches decide so. Nobody can be in charge forever; we all need to get our mandates from the branches.

Jess Duarte: Transforming a very old, entrenched system is a very hard process. You cannot achieve things overnight: overnight we found ourselves, from the underground movement that we were, to being the government, which was a real shock to the system. Today we are still dealing with the tensions that arose from that shock, as some civil servants of the old regime that are still in the system are hostile to the ANC's new way of thinking. It is also hard to provide fast training to people who will assume administrative responsibilities: we have learned that it takes time, as the transformation needs to happen from the lowest level, that of the municipality, to the regional level and the national one. The first thing you are confronted with is the budget: it is narrow, and you do not have a say in it. As time goes on, though, you learn how to manage the particular contradictions that define the transition from one system to the other. We are still working on this, the process of transition is not over yet.

Ms Moshodi: To keep the electorate aware of our existence, there is also the legacy of colonialism, which created two societies in South Africa; it created a gap that the period between 1994 and now is too short to actually close. It is the duty of the ANC to ensure that that gap is closed. We are getting closer, but we need to keep working on it. To give an example, in the past it used to be extremely hard to

buy or rent a house; many of us were raised in small houses where the whole extended family would live. Now things are changing: we can safely say that every 18 year old can apply for low cost housing. Therefore, it is incumbent upon any opposition party to match or surpass what the ANC has done and is still doing, and that is not an easy task. We do have opposition parties that keep us on our toes and we welcome that. Your question reminds me of another one that we are always asked, namely how can the ANC have 60 per cent of the votes; many claim that it is not democratic. In my opinion it actually is, because we work really hard. Being in politics in many African countries is a relatively big deal: you want to do your best to keep that job. In European countries, where there is industrialisation, people aspire to corporate jobs rather than politics, while here we still have to build and establish the corporate world and strata. That is a major difference.

Roelf Meyer: The process of transformation is an extremely long one. If at the time of the transition I thought it would maybe take 15 years to complete it, 19 years down the road I realise we are still far from it.

Participant: Is the Communist Party part of the ANC?

Baleka Mbete: No. We have an alliance with other parties. When we run for the national elections, it is the ANC that competes. Through our own internal mechanism of alliance, we ensure that people with a trade union background and people that come from the Communist Party come in their own right as card carrying members who belong to branches of the ANC.

Obed Mapela: Each party maintains its own identity. It is not a coalition, it is an alliance. All of our people are running for the ANC; we have one manifesto that is debated by every group.

Jess Duarte: The alliance is not a tactical alliance, it is a strategic one. Since the early 1950s the ANC, the Communist Party, and what was the trade union movement worked together on the ANC political platform under a particular set of objectives referred to as the National Democratic Revolution. We are working together for non-racialism, democracy, unity, and the overcoming of colonialism, which reflects our history and apartheid system itself. What unites us now is looking at how to bring our country forward in the future. In this alliance we keep an open dialogue; we have a consensus on the principles we are trying to promote.

Participant: Why do you call each other ‘comrades’? And what is the mechanism behind the party’s organisation?

Jess Duarte: The ANC works on the principle of democratic centralism. The most important unit at the decision-making level is our party branch: even though all members belong to different groups, they ultimately all belong to the ANC, and their consensus is needed in order to take decisions. The representatives of the ANC are all equally elected; there is the President of our political liberation movement, and the Secretary General and I, who are the engine of the organisation, as we manage its day to day running. For what concerns comradeship, it is a vitally important element of any liberation movement. It is the level to which we can commit each other to the cause, rather than looking at narrow political objectives only.

Participant: Thank you very much. I am very happy to see women's faces here around this table. I know you have established a 50 per cent gender quota in the ANC; we have 40 per cent quotas so far, but we are trying to move towards a more democratic system, and we are trying to derive some results from this visit and this meeting. Over the past week I have been asking the same question about the role of women in the liberation struggle, but I have not received a proper response. Especially as Kurdish women, we are particularly interested in the struggle of black women; we have been following it and trying to draw conclusions from it. I have read some academic papers on the topic as well, but was not able to find satisfactory answers. Could you give us a summary about your struggle as women?

Ms Moshodi: We have always been involved in the political struggle. We also had to fight after the struggle had proved successful, to make sure that women who had fought side by side with their men would not be pushed back into the kitchen. If you were married in the apartheid period, your husband was your boss and you would be inherited like a piece of the furniture. We have changed all of that, even though it has not always been easy since we have a deeply rooted patriarchal system here in South Africa. We struggled to achieve women's representation: we established a very strict 50 per cent gender quota system, and that is a particularly of the ANC, it is not a national thing yet. While the country's Constitution does not provide a system of quotas, the ANC is enforcing it through our party mechanism.

Participant: Though does establishing quotas go against the principle of equality?

Baleka Mbete: In the Bill of Rights, the equality clause not only provides for the equality of all citizens, but also allows or affirmative action of positive discrimination: favouring someone because that person had previously been discriminated and disadvantaged: therefore does not constitute a breach of the equality clause.

Participant: Do you have a specific budget for women? And do you have a women's organisation in the ANC?

Baleka Mbete: We do not have a specific budget but we do have an organisation: the ANC Women's League. Each ministry is supposed to have a focal point on women in order to deal with the issues related to gender within the context of the ministry's work, taking into account its budget and programme. Now we have also established the Ministry of Women, Children and People with Disabilities.

Participant: You talked about a Veteran's League as well, next to the Women's one. What were the difficulties you met, with regards to the integration of the armed militants into politics?

Participant: Defining victimisers and victims is always an issue; how does this play out with regards to the members of your military wing? Is there another affirmative action of positive discrimination towards them as well?

Ms Moshodi: You are right; the concept of victimisers and victims is always an issue. The ANC adopted the view that members from all the liberation movements should be integrated into the formal structure of the Defence Forces, even though this left out of the

equation a number of people who did not have the necessary skills and requirements to go into the official forces. We are still dealing with it now, and that is why we have established a veteran unit in the armed forces.

Jess Duarte: It is true that there are still many gaps, but we have accomplished the greatest integration yet. There was indeed the problem of qualification, but we put in place mechanisms to recognise which kind of training would provide people with the necessary skills to be let in. It was by no means a perfect system but it has worked, and now we have the South African Defence Forces that incorporates everyone. The same applies to the intelligence services of the ANC and the PAC; they were integrated in a new intelligence organisation too. Many are still outside of the system, but we established a welfare veteran organisation that looks after the interests of those that could not be absorbed, which still exists. The Veterans' Department in the National Defence Forces has created a comprehensive database, and few weeks ago we achieved a major development when the Veterans' Department issued medical aid cards that allow veterans to receive treatment from any doctor in any hospital. All provinces will be covered, and this is not an easy task, since many of our comrades do not have any coverage at present.

Baleka Mbete: I think it is important to have all the veterans from different groupings come together to discuss issues through whatever leader they have confidence in. It should not concern only the veterans of the groups that were attached to the ANC: our intelligence people sat with other groups, and they came up with a common solution.

Participant: Thank you all; you have already answered most of the questions I had in my mind. As a politician, I would like to compliment you for your great achievements: you have accomplished so much in less than 20 years, and if I look at my party and what we have carried out in the same period of time, I have to admit I am really impressed. On the other hand though, the economic balance has not yet shifted in favour of the blacks. What are you doing in order to achieve this?

Baleka Mbete: During our last conference we realised that we have now reached a point where, while we have obtained political power, the main challenges that face us are of an economic kind, and that is what the second phase of our transition must focus on. Of course this is not our only challenge: we recognise that not even the Freedom Charter that we adopted in 1955 has been fully fulfilled yet. The Conference has adopted the National Development Plan, through which we are hoping to achieve a turnaround using a government institutions. It is not going to be easy. We now need a breakdown of what we need to achieve; we have a broad blueprint but we need to look in more detail at the issue of timing.

Jess Duarte: The economic one is a very serious problem. Even the way our town planning was done resulted in the majority of people being unemployed: from Soweto it takes one hour by train to come into Johannesburg. That spatial apartheid is something we are still dealing with, the mechanisms on the ground need to be improved. We have not yet managed to alleviate poverty at the rate we would be happy with, it is a huge challenge but we think we can take it up and succeed. We have achieved a great step, in that we have our dignity as South Africans; Roelf Meyer can tell you too, white people had privileges not rights. Now everyone has rights.

Participant: What are the conditions to become a member of the ANC? I also would like to ask you another question: power seduces and corrupts, and looking at the Transparency International Corruption Perception Index we can see South Africa ranks quite low. Do you any have special policy to fight against corruption?

Baleka Mbete: Yes, but when the ANC came into power there was a lot of corruption too. In South Africa now we talk openly about corruption because, as the ANC government, we have implemented this policy of calling our own members out if they are found guilty of corruption. We have anti-corruption policies, and we are not tolerating these things. Our biggest challenge is actually that of communication: our society has been misinformed, so now they think that the fact that we talk about corruption means we brought it. I am not saying that none of our people has been found guilty of wrongdoing, but now there is a much wider perception and more talk about corruption from our side. Some of what is reported as corruption is more a question of mismanagement: sometimes things go wrong just because people do not know how to do them; half the time our people do not provide information that would explain what happened, and this leads to the assumption that something went wrong. It is a matter of proper keeping of records. Our people have not had enough and adequate experience in those offices yet.

Jess Duarte: Membership is open to everybody over 18. Let me just say something in support to our chairperson on the way we communicate things: when we started to talk about the problem of AIDS, all over the world people were claiming that every third woman in South Africa was HIV positive. We just acknowledged that we had a problem, and then people went on to make their own

editorials. We talk about crime, and we get labelled as the crime capital of the world. We talk about these issues because they bother us and we want to raise awareness, but then the press distorts the facts and people are led to believe that that is how we live. Once I met this German woman who claimed that rape was a tradition in South Africa. I have lived in Europe and in the US for a long time, and I know you find shelters for raped women all over the place even there. The reason why we talk about these issues is that we want our people to know and understand that they are not acceptable. That is why we report readily on those things.

Participant: You said that you have an action plan which is renewed continuously. What are some of its major points? Can you summarise your project for the upcoming years?

Baleka Mbete: Our programme of action is always the result of the National Conference and it is contained in the Conference's resolution. I am sure that we can share that with you. Our priorities are education, health, rural development, crime, and land reform. And through our portfolio we expect our comrades to be focusing on that.

Participant: What is the ethnic composition of the ANC? Do you have percentages and statistical data on it?

Jess Duarte: We do not have a breakdown, but I would say it is proportional to the ratio of people per ethnic group in the country. The numbers are also determined by our historical heritage, so clearly we have a majority of black people. Since the way we keep track of information comes from the branches though, they would not tell us the ethnic breakdown, because we frown upon that.

Participant: What is the general attitude of white people towards the ANC government and its policies?

Baleka Mbete: There are many white people that think that our policies are good for South Africa, even if they do not directly join the ANC. Of course there are also many who will never accept this change.

Roelf Meyer: We discussed this briefly yesterday, and I said that at the initial stage of the transition there were 30 per cent of whites who did not support the process. That 30 per cent is still around now.

Participant: We heard that although the whites knew the ANC would have won the elections in 1994, they were not sure it would be able to govern the country.

Baleka Mbete: Yes, we heard that there were some white people who hid with provisions of food, thinking ‘God knows which calamity was is to happen’. But everyone is settling down, it is a long process. Thank you very much; thank you for your attention and good luck with your process.

Kerim Yildiz: Thank you for receiving us and for sharing with us your experience. I am sure we have all learned a lot from this meeting. Thank you.

Tuesday 7th May – Lunch hosted by Justice Zac Yacoob, Clico Boutique Hotel, Johannesburg

With:

Zac Yacoob, Former Constitutional Court Judge and Deputy Chief of Justice of South Africa

Venue: Clico Boutique Hotel, Johannesburg



Judge Yacoob and Ahmet Insel discuss over lunch at Clico Boutique Hotel

Zac Yacoob: Welcome to you all. I know you have been here for a week already, and I hope you have learned a lot listening to people sharing their experiences from the South African transition. I just want to give you one last suggestion: I am sure you know by now that we had a long struggle for democracy in this country. The black majority of South Africans were poor, disempowered, and had everything done to them. The ANC was banned in 1961, and many of our leaders were forced into exile. You know what happened next; the ANC started a movement of civil disobedience and unrest that eventually led to its unbanning and to the start of the negotiations in 1990. What really brought about the process, though, was the fact that both sides needed an agreement: the

ANC could not cripple the military, and the white minority had to settle because the country had become ungovernable. People do not settle because they have good hearts, they do so when they have an interest in it. My suggestion to you, then, is to find a common interest, and you will see that a settlement will come. Good luck with your process.

Kerim Yildiz: Thank you Your Honour; thank you for joining us today and for sharing your insights. It has been an incredibly stimulating week, during which we have had the opportunity to meet with and learn from high level experts with direct experience relating to South Africa's transition to democracy. We will treasure all the information and advice we have received. Thank you.

Appendix

Post-Apartheid Reconciliation and Coexistence in South Africa

A Comparative Study Visit

30th April – 7th May 2013

Participants from Turkey:

- Ayla Akat - Member of Parliament, Peace and Democracy Party (BDP)
- Dr Mehmet Asutay - Professor, University of Durham
- Ali Bayramoğlu - Columnist, political commentator at Yeni Şafak daily newspaper
- Cengiz Çandar - Writer and Journalist for Radikal newspaper
- Yılmaz Ensaroğlu - Director of Law and Human Rights at SETA (Foundation for Political, Economic and Social Research), Member of the Executive Board of the Joint Platform for Human Rights and İHGD, Chief Editor of the Journal of the Human Rights Dialogue
- Levent Gök - Member of Parliament, Ankara, Republican People's Party (CHP)
- Nazmi Gür - Member of Parliament, Van, Member of EU Harmonisation Commission of the Turkish Grand National Assembly; Member of the Commission for Foreign Affairs; Member of The Turkey-EU Mixed Parliament Commission; Vice-President of Peace and Democracy Party (BDP)

- Prof. Dr Ahmet Insel - Professor, Paris 1 Panthéon-Sorbonne University; Professor, Head of Department of Economics, Galatasaray University. Editor, writer for monthly journal, Birikim. Writer for Radikal Newspaper
- Burhan Kayatürk - Member of Parliament, Ankara, Justice and Development Party (AK Party)
- Dr Havva Kök Arslan - Associate Professor, Peace and Conflict Resolution Programme Masters, Hacettepe University, Ankara
- Ertuğrul Kürkçü - Member of Parliament, Mersin, Peace and Democracy Party (BDP), Member of Parliament's Human Rights Commission
- Bejan Matur - Columnist, poet and writer
- Nursuna Memecan - Member of Parliament, Sivas, Chairperson of the Turkish Group of the Europe Parliamentary Assembly, Member of the Turkey-EU, Mixed Parliament Commission, Justice and Development Party (AK Party)
- Prof. Dr Mithat Sancar - Professor of Public Law, Ankara University; columnist at Taraf Daily Newspaper
- Sezgin Tanrıkulu - Member of Parliament, Istanbul, Republican People's Party (CHP). Vice President of CHP, Member of Central Executive Board of CHP; Vice President of the Human Rights Research Commission of the Parliament
- Dr Mehmet Tekelioğlu - Member of Parliament, Izmir, Justice and Development Party (AK Party). Chairman of the EU Harmonisation Commission of the Turkish Grand National Assembly

Participants from South Africa:

- Mohammed Bhabha - Advisor to the Development Bank of South Africa and to the Ministry of Co-operative Government and Traditional Affairs
- Yunus Carrim - Deputy Minister of Cooperative Governance and Traditional Affairs in the South African Government
- Faizal Dawjee - Head of Communications at the Office of Former President Thabo Mbeki
- Judge Siraj Desai - High Court Judge
- Dr Fanie Du Toit - Executive Director of the Institute for Justice and Reconciliation (IJR)
- Jessie Duarte - Deputy Secretary General of the ANC
- Ebrahim Ebrahim - Deputy Minister of International Relations and Cooperation in the South African Government; Member of the African National Congress (ANC) and of the National Executive Committee(NEC); Senior political and economic advisor for the President of South Africa
- Mustafa Eroğlu - Secretary General of Horizon Educational Trust
- His Excellency Kaan Esener - Turkish Ambassador to South Africa
- Ivor Jenkins - Managing Director of Institute for Democracy in Africa (IDASA)
- Dr Shuaib Manjra - Muslim Community Leader
- Nomaindia Mfeketo - Deputy Speaker of the Parliament of South Africa
- Obed Mapela - Deputy Minister for performance Monitoring and Evaluation of the Republic of South Africa

- Baleka Mbeke - National Chairperson of the ANC
- Roelf Meyer - Founder and Co-Leader of the United Democratic Movement
- Ms Moshodi - ANC Representative
- Deputy President Kgalema Petrus Motlante - Deputy President of South Africa
- Prof. Laurie Nathan - Director of the Centre for Mediation in Africa at the University of Pretoria
- Dr Essop Pahad - Member of Parliament of the Republic of South Africa; Member of the National Executive Committee of the African National Congress; Chairman of the Board of the South Africa/Mali Timbuktu Manuscripts Trust; Chairman of the Board of Trustees of the South African Democracy Education Trust
- Moe Shaikh - Senior Intelligence Officer of the ANC
- Dave Steward - Executive Director and Trustee of the FW de Klerk Foundation
- Justice Zac Yacoob - Retired Constitutional Court Judge

DPI Board and Council of Experts

Director:

Kerim Yildiz

Kerim Yildiz is Director of DPI. He is an expert in international human rights law and minority rights, and is the recipient of a number of awards, including from the Lawyers Committee for Human Rights for his services to protect human rights and promote the rule of law in 1996, the Sigrid Rausing Trust's Human Rights award for Leadership in Indigenous and Minority Rights in 2005, and the Gruber Prize for Justice in 2011. Kerim has written extensively on human rights and international law, and his work has been published internationally.

DPI Board Members:

Nicholas Stewart QC (Chair)

Barrister and Deputy High Court Judge (Chancery and Queen's Bench Divisions), United Kingdom . Former Chair of the Bar Human Rights Committee of England and Wales and Former President of Union Internationale des Avocats.

Professor Penny Green (Secretary)

Head of Research and Director of the School of Law's Research Programme at King's College London and Director of the International State Crime Initiative (ICSI), United Kingdom (a collaborative enterprise with the Harvard Humanitarian Initiative and the University of Hull, led by King's College London).

Priscilla Hayner

Co-founder of the International Centre for Transitional Justice, global expert and author on truth commissions and transitional justice initiatives, consultant to the Ford Foundation, the UN High Commissioner for Human Rights, and numerous other organisations.

Arild Humlen

Lawyer and Director of the Norwegian Bar Association's Legal Committee. Widely published within a number of jurisdictions, with emphasis on international civil law and human rights. Has lectured at law faculties of several universities in Norway. Awarded the Honor Prize of the Bar Association for Oslo for his work as Chairman of the Bar Association's Litigation Group for Asylum and Immigration law.

Jacki Muirhead

Practice Director, Cleveland Law Firm. Previously Barristers' Clerk at Counsels' Chambers Limited and Marketing Manager at the Faculty of Advocates. Undertook an International Secondment at New South Wales Bar Association.

Professor David Petrasek

Professor of International Political Affairs at the University of Ottawa, Canada. Expert and author on human rights, humanitarian law and conflict resolution issues, former Special Adviser to the Secretary-General of Amnesty International, consultant to United Nations.

Antonia Potter Prentice

Expert in humanitarian, development, peacemaking and peacebuilding issues. Consultant on women, peace and security; and strategic issues to clients including the Centre for Humanitarian Dialogue, the European Peacebuilding Liaison Office, the Global Network of Women Peacemakers, Mediator, and Terre des Hommes.

DPI Council of Experts

Dermot Ahern

Dermot Ahern is a Former Irish Member of Parliament and Government Minister and was a key figure for more than 20 years in the Irish peace process, including in negotiations for the Good Friday Agreement and the St Andrews Agreement. He also has extensive experience at EU Council level including being a key negotiator and signatory to the Constitutional and Lisbon Treaties. In 2005, he was appointed by the then UN Secretary General Kofi Annan to be a Special Envoy on his behalf on the issue of UN Reform. Previous roles include that of Government Chief Whip, Minister for Social, Community and Family Affairs, Minister for Communications, Marine and Natural Resources, Minister for Foreign Affairs and Minister for Justice and Law Reform. Dermot Ahern also served as Co-Chairman of the British Irish Inter Parliamentary Body 1993 – 1997.

Dr Mehmet Asutay

Dr Mehmet Asutay is a Reader in Middle Eastern and Islamic Political Economy and Finance at the School of Government and International Affairs (SGIA), Durham University, UK. He researches, teaches and supervises research on Middle Eastern economic development, the political economy of Middle East including Turkish and Kurdish political economies, and Islamic political economy. He is the Honorary Treasurer of BRISMES (British Society for Middle East Studies) and of the International Association for Islamic Economics. His research has been published in various journals, magazines and also in book format. He has been involved in human rights issues in various levels for many years, and has a close interest in transitional justice, conflict resolution and development issues at academic and policy levels.

Christine Bell

Legal expert based in Northern Ireland; expert on transitional justice, peace negotiations, constitutional law and human rights law advice. Trainer for diplomats, mediators and lawyers.

Cengiz Çandar

Senior Journalist and columnist specializing in areas such as The Kurdish Question, former war correspondent. Served as special adviser to Turkish president Turgut Ozal.

Yilmaz Ensaroğlu

SETA Politics Economic and Social Research Foundation. Member of the Executive Board of the Joint Platform for Human Rights, the Human Rights Agenda Association (İHGD) and Human Rights Research Association (İHAD), Chief Editor of the Journal of the Human Rights Dialogue.

Dr. Salomón Lerner Febres

Former President of the Truth and Reconciliation Commission of Perú; Executive President of the Centre for Democracy and Human Rights of the Pontifical Catholic University of Perú.

Professor Mervyn Frost

Head of the Department of War Studies, King's College London. Previously served as Chair of Politics and Head of Department at the University of Natal in Durban. Former President of the South African Political Studies Association; expert on human rights in international relations, humanitarian intervention, justice in world politics, democratising global governance, just war tradition in an Era of New Wars and ethics in a globalising world.

Martin Griffiths

Founding member and first Executive Director of the Centre for Humanitarian Dialogue, Served in the British Diplomatic Service, and in British NGOs, Ex -Chief Executive of Action Aid. Held posts as United Nations (UN) Director of the Department of Humanitarian Affairs, Geneva and Deputy to the UN

Emergency Relief Coordinator, New York. Served as UN Regional Humanitarian Coordinator for the Great Lakes, UN Regional Coordinator in the Balkans and UN Assistant Secretary-General.

Dr. Edel Hughes

Senior Lecturer, University of East London. Expert on international human rights and humanitarian law, with special interest in civil liberties in Ireland, emergency/anti-terrorism law, international criminal law and human rights in Turkey and Turkey's accession to European Union. Previous lecturer with Amnesty International and a founding member of Human Rights for Change.

Avila Kilmurray

A founder member of the Northern Ireland Women's Coalition and was part of the Coalition's negotiating team for the Good Friday Agreement. She has written extensively on community action, the women's movement and conflict transformation. Serves on the Board of Conciliation Resources (UK); the Global Fund for Community Foundations; Conflict Resolution Services Ireland and the Institute for British Irish Studies. Avila was the first Women's Officer for the Transport & General Workers Union for Ireland (1990-1994) and became Director of the Community Foundation for Northern Ireland in 1994. Avila was awarded the Raymond Georis Prize for Innovative Philanthropy through the European Foundation Centre.

Professor Ram Manikkalingam

Visiting Professor, Department of Political Science, University of Amsterdam, served as Senior Advisor on the Peace Process to President of Sri Lanka, expert and author on conflict, multiculturalism and democracy, founding board member of the Laksham Kadirgamar Institute for Strategic Studies and International Relations.

Bejan Matur

Renowned Turkey based Author and Poet. Columnist, focusing mainly on Kurdish politics, the Armenian issue, daily politics, minority problems, prison literature, and women's issues. Has won several literary prizes and her work has been translated into 17 languages. Former Director of the Diyarbakır Cultural Art Foundation (DKSV).

Professor Monica McWilliams

Professor of Women's Studies, based in the Transitional Justice Institute at the University of Ulster. Was the Chief Commissioner of the Northern Ireland Human Rights Commission from 2005-2011 and responsible for delivering the advice on a Bill of Rights for Northern Ireland. Co-founder of the Northern Ireland Women's Coalition political party and was elected to a seat at the Multi-Party Peace Negotiations, which led to the Belfast (Good Friday) Peace Agreement in 1998. Served as a member of the Northern Ireland Legislative Assembly from 1998-2003 and the Northern Ireland Forum for Dialogue and Understanding from 1996-1998. Publications focus on domestic violence, human security and the role of women in peace processes.

Jonathan Powell

British diplomat, Downing Street Chief of Staff under Prime Minister Tony Blair between 1997- 2007. Chief negotiator in Northern Ireland peace talks, leading to the Good Friday Agreement in 1998. Currently CEO of Inter Mediate, a United Kingdom -based non-state mediation organization.

Sir Kieran Prendergast

Served in the British Foreign Office, including in Cyprus, Turkey, Israel, the Netherlands, Kenya and New York; later head of the Foreign and Commonwealth Office dealing with Apartheid and Namibia; former UN Under-Secretary-General for Political Affairs. Convenor of the SG's Executive Committee on Peace and Security and engaged in peacemaking efforts in Afghanistan, Burundi, Cyprus, the DRC, East Timor, Guatemala, Iraq, the Middle East, Somalia and Sudan.

Rajesh Rai

Rajesh was called to the Bar in 1993. His areas of expertise include Human Rights Law, Immigration and Asylum Law, and Public Law. Rajesh has extensive hands-on experience in humanitarian and environmental issues in his work with NGOs, cooperatives and companies based in the UK and overseas. He also lectures on a wide variety of legal issues, both for the Bar Human Rights Committee and internationally.

Professor Naomi Roht Arriaza

Professor at University of Berkeley, United States, expert and author on transitional justice, human rights violations, international criminal law and global environmental issues.

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