



SA Chamber of Commerce CEO Alan Mukoki remarks on the 25th Anniversary of the Constitution of the Republic of South Africa. “We the people of South Africa. The Constitution as the fundamental component of the transformation of the South African society.” 4th February 2022, Constitution Hill Johannesburg.

The Programme director, honourable minister of justice Mr Lamola, His Excellency President Ramaphosa, Acting Chief Justice Zondo, cabinet ministers, justices of the court, senior govt officials, distinguished guests, ladies, and gentlemen. Good morning and thank you for inviting us to make our remarks on the occasion of the 25th anniversary of the adoption of the Constitution of the Republic of South Africa. On the theme “We, the people of South Africa. The Constitution as the fundamental component for the transformation of the South African society.”

In John Patrick’s Tony Award winning play, The Teahouse of the August Moon, the American naval officer stationed in Okinawa, Japan, during World War II, says in effect “we are going to establish a democracy here, even if it means killing everyone to do so”

Julius Caesar, the Roman dictator, was assassinated by a group of senators on the Ides of March (15 March) of 44 BC during a meeting of the Senate at the Theatre of Pompey in Rome. The senators stabbed Caesar 23 times. They claimed to be acting over fears that Caesar's unprecedented concentration of power during his dictatorship was undermining the Roman Republic and presented the deed as an act of tyrannicide.

At least sixty senators were party to the conspiracy, led by Marcus Brutus and Gaius Longinus. Despite the death of Caesar, the conspirators were unable to restore the institutions of the Republic. The ramifications of the assassination led to the Liberators' civil war and ultimately to the Principate period of the Roman Empire.

The principate period was characterised by the reign of a single emperor, the very opposite outcome of what those who removed Caesar thought they were trying to achieve, in protecting the Roman Republic.

Absent Constitutional frameworks underpinned by the values of fundamental human rights, these two examples unleashed untold horror and brutality. The colonial and apartheid dispossession and brutality of our own SA history was not any different.

It is precisely this horror of subjugation that SA's constitution sought to address in the transformation of our society, when Nelson Mandela spoke at the signing of the constitution and said these words:

“Our pledge is: Never and never again shall the laws of our land rend our people apart or legalise their oppression and repression. Together, we shall march, hand-in-hand, to a brighter future

When King Lear told the blind Gloucester, "A man may see how this world goes with no eyes, he also told the Gloucester how "to look with thine ears".

“See how justice rails upon yond simple thief. Hark, in thine ear: change places; and handy dandy, which is the justice, which is the thief? Thou has seen a farmer's dog bark at a beggar?"

Changing places has been one way to 'see' hidden things in the world, which is the general point that King Lear makes here, in addition of course, to drawing Gloucester's attention, in a politically subversive statement, to the remarkable fact that in the farmer's dog, "he might behold the great image of authority."

In his book, *The Idea of Justice*, Sen argues that the need to transcend the limitations of our positional perspectives is important. What we can see is not independent of where we stand in relation to what we are

trying to see. And this in turn, can influence our beliefs, understanding and decisions.

As organised business we must admit that we have lagged behind in embracing the potential presented by a transforming society. We have not leveraged the opportunities that an inclusive economy with massive and critical investments in the acquisition of relevant skills and competencies by the historically excluded majority, growing markets, the majority of South Africans in employment as opposed to relying on social welfare, and rising incomes, presents for the exponential growth and profitability of our businesses and the economy.

Business leaders should play a key role in the transformation of society as this is no doubt enlightened self-interest that contributes to a successful SA with the constitution and the rule of law providing a stable political and economic environment for the continued development of South Africa and the achievement of the UN Sustainable development goals, that include, as part of the 17 goals: no poverty; zero hunger; quality education; good health and well-being; gender equality; clean water and sanitation; affordable and clean energy; decent work and economic growth.

In Latin American dancing, the female dancer is assumed to be the picture and the male dancer, the frame. As they catch and release, step

into and away from each other, they are both conscious of this picture and frame in the dance.

The constitution is the frame, and the republic is the picture. We can paint any images we want and use any pastels and colours we prefer, as long as we stay inside the frame. We can even add bells and whistles to the frame and explore redesigns as we have done seventeen times previously, as long as it is done by “we, the people...”

It is the frame that protects the republic, including protecting the republic from itself.

Without a strong constitution and rule of law, we can easily end up with what psychologists call the “dark triad;” narcissism, psychopathy and machiavellism.

In his book, *The Association of Small Bombs*, Indian -American writer, Karan Mahajan says:

“Nothing recovers from a bomb: not our humanity, not our politics, and not even our faith.”

We must paint the picture of a stable republic, whose success should not only be measured by the size of our GDP or measured by how well

rich people are doing. We need a republic that also places social justice at its core. It's a mistake to assume we can have a stable and sustainable political and economic environment, without social justice. It is what this constitution demands from all of us, to transform and build an equitable society.

The picture we must paint to fit the frame of the constitution.

No one explains the issue of social justice better than the Indian scholar and Economics Nobel prize laureate, Amartya Sen, who tells the story of three children, Anne, Bob, and Carla, who are fighting over who should have ownership of a flute.

Anne, without disputing the claims of the other two, argues that unlike the other two, she is in fact the only one, who can play the flute and will therefore derive maximum benefit and utility from its use and ownership. Anne is making the argument of a Utilitarian economist.

Bob, on the other hand, and without disputing the contestations of the others, argues that, of the three of them, he is extremely poor and has no money to buy other toys, and that he deserves to be given the flute as this would be an equitable thing to do. Bob is making the argument of an Egalitarian economist.

Carla, also without contesting the legitimacy of Anne and Bob's claims, argues that of the three of them, she in fact is the only one who made the flute. It was her sweat, blood, and tears, and therefore, the flute ought to rightfully belong to her.

Carla is making the argument of a Libertarian economist.

None of these three claims are more right or more wrong. Therein lies the challenge of leadership in resolving complex problems, by looking for social justice by not just trying to be right, but in striving for the equilibrium to do the right thing.

This is the challenge faced by the SA leadership cohort in both the public and private sector. It is what the vision of this constitution is. "We the people of South Africa. The constitution as the fundamental component for the transformation of South Africa."

The last 25 years have given us a solid frame of the Constitution. The next 25 years is going to be about gifts and choices in how we paint the republic's picture to fit the frame of the Constitution.

There is an asymmetry in skills and knowledge between the private and public sectors in SA that is weighted more in favour of the private sector.

The decision-makers in the SA economy include bankers, accountants, actuaries, engineers, economists, and lawyers.

Many of these have the gift of smart and capable brains. Our gifts can allow us to invent and find the most innovative solutions to make a positive contribution to economic and social transformation.

Similarly, we should guard against the temptation by some, amongst us, to use our gifts to frustrate the process and use our brilliant legal minds and resources to push back on transformation.

The Constitution is asking of us to be kind to the republic and all its inhabitants.

Will we use our gifts to be clever at the expense of others, or will we be kind?

In the last 100 years, only about 8 non-western countries have moved their economies from developing to developed economies. These are Japan, Taiwan, South Korea, old Hong Kong, Singapore, Russia, Israel, and Australia. They did this by delivering on those sustainable development goals mentioned earlier, and thereby moving millions of their citizens out of poverty.

I am going to hazard a guess that in the next 25 years when we reflect, the narration that will be most telling will be the series of choices we would have made in the area of economic and social transformation that will set SA well on the road to becoming a developed economy capable of solving the triple challenge of poverty, unemployment, and inequality.

We have a good Constitution as a frame. Let's go build ourselves a great republic.

Thank you.

Acknowledgements:

*W. Shakespeare; King Lear

*A. Sen; The Idea of Justice

*F. Nietzsche; On the Genealogy of Morals