

FIRST DRAFT

FROM RACIAL DISCRIMINATION

TO

RECONCILITATION

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The vast majority of the people of South Africa were discriminated against by the whites-only government for three and a half centuries because they were black.

In 1948 apartheid was declared the official policy of the country and many laws were passed to make their lives even worse.

If you were black, you were discriminated against from the cradle to the grave.

Your mother would not have been allowed to give birth in a whites only hospital. She could not take you to the park to play games, have a picnic or sit on a whites-only bench.

Your parents could live in an area with other blacks. They could not choose your school, nor how you would get to it. There were different trains, buses and taxis for different groups.

You were not allowed to enter most cinemas, theatres or halls reserved for whites.

You could not worship in the same church.

The better jobs were reserved for whites. Their salaries were higher than those of your parents even if they did similar work.

Marriages between black and white were prohibited. You could not even be buried in the same cemetery.

Blacks had no right to vote nor a right to be elected as leaders of South Africa.

African men and women suffered even more because they had to carry a pass which controlled their right of movement within the country. The wives and children were kept from their husbands and fathers, that had to live in hostels if they worked on the mines or in the cities. They were sent to prison or forced to work on farms if their passes were not in order.

Brave leaders of the oppressed people and many of their supporters opposed these policies and defied the unjust laws, were imprisoned, exiled, house arrested and killed by the police when taking part in peaceful demonstrations, detained without trial, tortured, some were sentenced to death by the courts and executed. Particularly those who took up arms against the symbols of apartheid led by Mr Nelson Mandela who together with a few thousand of others spent a long time as prisoners on Robben Island.

The liberation movement both within and outside the country, the United Nations, the Non-Aligned Movement, banking and financial institutions, universities, student and youth movements united in their efforts to bring about fundamental changes in South Africa.

In the beginning of the last decade of the twentieth century, the dawn of freedom broke when Nelson Mandela, Walter Sisulu and Govan Mbeki and many others were released, political organisations were unbanned, many of the unjust laws

were repealed. Negotiations started amongst the various political groups, civil society, religious leaders, academics and many citizen groups that took part in the process of shaping South Africa's Bill of Rights and Constitution.

The interim Constitution were moulded by political parties, civil society, religious leaders, citizens groups throughout the country, political scientists and lawyers who met for over three years, particularly in the Convention for a Democratic South Africa "CODESA". The process lead to the adoption of the final clause:

"National Unity and Reconciliation"

The Constitution provides a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief and sex.

The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society.

The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge.

These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation".

In order to give effect to what is expected by the Constitution, a law was passed for The Promotion of National Unity and Reconciliation in 1995. It provides for the investigation of the gross violations of human rights emanating from the conflicts of the past, the fate or whereabouts of victims of the violations; the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective, providing for reparation, rehabilitation and the restoration of the civil dignity of the victims of violations of human rights. It also established a Truth and Reconciliation Commission and a Committee for Reparation and Rehabilitation.

Over seven thousand persons applied for amnesty. Many of the applications were refused because there was no full disclosure.

Although the amnesty process under the leadership of Archbishop Tutu helped to reconcile some perpetrators with their victims, others were disappointed that some high profile perpetrators, even though they did not apply or were refused amnesty, were not tried and punished by the courts.

Archbishop Tutu, President Nelson Mandela and many others appealed to all of us to embrace the words of the Constitution. Had we not become reconciled the conflicts of the past would have continued and many more would have had to suffer.

Transformative Justice may deprive individuals of their rights but it is used to avoid greater harm to society as a whole.

We in South Africa are fortunate to have been led during the struggle by the wisdom of great men and women who believe that South Africa belongs to all of all who live in it, black and white, and that all of us are entitled to fundamental human rights, particularly the freedoms mentioned in the Bill of Rights and more particularly the rights to life, freedom, equality and human dignity.