



COUNCIL
FOR THE ADVANCEMENT OF THE
SOUTH AFRICAN
CONSTITUTION

STATEMENT OF THE CASAC ADVISORY COUNCIL

Cape Town, 4 March 2017

A time of crisis

Members of the Advisory Council of the Council for the Advancement for the South African Constitution (CASAC) met on Saturday 4 March 2017 in Cape Town for its bi-annual meeting. The CASAC Advisory Council, chaired by Siphosiso Pityana, had a detailed conversation about the state of the nation and the political and economic crises that threaten the welfare and security of all who live in South Africa.

Leadership weakness is a root cause of South Africa's troubles

The Advisory Council reflected on the leadership crisis that underpins a very pessimistic outlook for South Africa, which adds to political and policy uncertainty.

Civil society remains strong and robust

On a more optimistic note, CASAC welcomes the energy that is being shown by independent civil society organisations, which continue to work for authentic socio-economic transformation and to maintain the hard-won political space and freedoms, and the institutions of an open, accountable and democratic state.

A wave of chauvinism threatens institutional integrity

Against the backdrop of similar trends in many other parts of the world, the Council expressed concerns about the rise not just of nationalism in South Africa, but also of 'racial chauvinism' that goes beyond vulgar public spats and threatens both the social fabric and the institutional integrity of the state.

A transformative constitution

The lack of consensus on economic policy and socio-economic transformation of how to respond to growing inequality and high unemployment is a primary threat to the Constitution, as well as the precarious existence of millions of people who live in South Africa. Accordingly, CASAC believes that there is merit in exploring

how economic rights could be added to the Bill of Rights in order to strengthen constitutional protection for those on the margins of the economy.

The Council re-asserted its own founding precept, namely, that it protects and promotes the Constitution as a key component of our transformatory institutional machinery. It calls on all progressive democrats to recognize the role that the Constitution can, and does, play in protecting the rights of the weakest and poorest members of society and in advancing societal transformation.

SASSA crisis is a case in point

In this context, CASAC expressed concern about the provision of social security payments and the crisis with the Department of Social Development and SASSA, which is emerging as a painful case study in how institutional disarray and infringements in due process and failures to abide by the rule of law can threaten the livelihoods of the poorest and most vulnerable members of society.

SARS is also a major concern

The apparent diminution in the capacity of SARS to gather tax revenue efficiently and to prevent unlawful tax evasion is also concerning. At a time of tight fiscal constraints, it reduces our ability to maintain the welfare state that the ANC-led government has built since 1994, and to sustain the investment in public works and other infrastructure development necessary for inclusive growth.

Growing militarization & dangerous scapegoating of the constitution

CASAC expressed concerns about an emerging tendency to blame the Constitution for failings in socio-economic delivery and transformation. There are growing signs of authoritarianism in the deployment of state resources such as the use of the military at the State of the Nation Address, and again in the calls from some quarters for their deployment during the recent xenophobic protests. This pattern could lead to a 'normalisation' of military intervention in public order policing.

The rule of law is strong but judicial appointments must be scrutinized as President Zuma misses an opportunity to transform judicial leadership

The strength of the rule of law and the independence of the judiciary are two vitally important assets for South Africa. In this regard, CASAC notes the recent decision of the President to (a) indicate his nomination for Deputy Chief Justice is Justice Raymond Zondo – and expresses its disappointment that an opportunity to appoint a woman into a leadership position in the judiciary has been missed (when only five of the 24 leadership positions in the High Court and Appeal courts are female); and (b) replace three well-respected members of the Judicial Service Commission that is constitutionally-responsible for judicial appointments. CASAC intends to continue to watch this space very carefully and work with other

organisations, such as UCT's Democratic Governance & Rights Unit and the Judges Matter campaign, so as to protect the integrity of the judicial appointment process.

As the Gupta's have shown, dirty money can taint democratic politics – lessons and implications for political party funding

A key issue, in terms of the relationship between public accountability, the constitution and secret private donations, is the way in which those who wish to exert undue influence on the political process can make secret donations of any size with impunity. Hence, CASAC will embark on a focused research project aimed at exploring the relationship between secret donations to the relevant governing parties and tender choices by those parties in government. CASAC will be engaging big business to persuade business to declare their donations and establish the principle of openness and transparency.

Corruption, the Advisory Council noted, is becoming a habitual characteristic in South Africa. 'Batho pele' has been replaced by 'rona pele'. Now is the time to challenge this trend and arrest South Africa's decline.

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