

# The First and Last Word – Freedom

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We give the first and last word to freedom, yet we do not know what it is.

This is the central irony of the deep and passionate struggle in South Africa – that it is for something that exists only in relation to what it seeks to eliminate. We know what oppression is. We experience it, define it, we know its elements, take steps against it. All we can say about freedom is that it is the absence of oppression. We define freedom in terms of the measures we need to take to keep its enemy, tyranny, at bay. Tyranny is the negative indicator of freedom; freedom is what apartheid is not.

When the call went up in the 1950s, ‘freedom in our lifetime’, it signified the end of something very specific – colonial domination in Africa and apartheid tyranny in South Africa. The Freedom Charter, adopted in 1955, was conceived of as the reverse of apartheid. A product of struggle rather than of contemplation, it sought in each and every one of its articles to controvert the reality of oppression the people were undergoing. Its ten sections were based on the demands that a suffering people sent in, not on any ideal scheme created by legal philosophers of what a free South Africa should look like.

Any new constitution in South Africa must be first and foremost

an anti-apartheid constitution. The great majority of the people will measure their newly won freedom in terms of the extent to which they feel that the arbitrary and cruel laws and practices of apartheid have been removed.

*Freedom is not some state of exaltation, a condition of instinctive anarchy and joy; it is not sudden and permanent happiness. In fact, some of the freest countries have the most melancholy and stressed people.*

Freedom is indivisible and universal, but it also has its specific moments and particular modes. In South Africa the mode of freedom is anti-racist, and anti all the mechanisms and institutions that kept the system of racism and national oppression in place. Yet the Constitution has to be for all South Africans, former oppressors and oppressed alike. It expresses the sovereignty of the whole nation, not just part, not even just the vast majority. If it is to be binding on all, it should speak on behalf of all and give its protection to all.

The elimination of apartheid does not by itself guarantee freedom – even for the formerly oppressed.

*History records many examples of freedom fighters of one generation becoming oppressors of the next.*

Sometimes the very qualities of determination, which give freedom fighters the courage to raise the banner of liberty in the face of barbarous repression, transmute themselves into sources of authoritarianism and forced marches later on. On other occasions, the habits of clandestinity and mistrust, of tight discipline and centralised control, without which the freedom-fighting nucleus would have been wiped out, continue with dire results into the new society. More profoundly, the forms of organisation and guiding principles that triumphed in insurrectionary moments, on long marches, in high mountains, that solved problems in

liberated zones, might simply not be appropriate for whole peoples and whole countries in conditions of peace.

These reflections have led some people into arguing for inaction against apartheid because of their concern that removing one tyranny might lead to its replacement by another. From a moral point of view, it seems most dubious to refrain from dealing with an actual and manifest evil because of anxiety that its elimination might lead to the appearance of another evil. Sufficient unto the day is the evil thereof.

*The best time for fighting for freedom is always now, and the best starting point is always here.*

The standpoint, the question of guarantees of freedom for all, is an important one that needs to be confronted now. It has a bearing on the character of the Constitution and the process whereby the new Constitution is to be brought about. There can, of course, never be absolute guarantees in history. What we do know for sure is that attempting to defend minority privileges by force of arms, whether through the present system, or by means of a constitution based on group rights, can only result in continuing strife and violation of human rights. The only system that has a chance is one based on non-racial democracy. What we need to do is strengthen the prospects as much as possible for it to be brought about as swiftly, securely and painlessly as possible. A democratic constitution is one and entire. It does not have 'own affairs' sections – one set of guarantees for blacks, another for whites.

*A constitution is a document with an intellectual reach into the future. It is our generation that drafts it in the light of our historical experience and thought of our age, but we consciously attempt to produce something that will last.*

If we wish to break down the habits of thinking in racial categories and encourage the principles of a non-racial democracy, we must produce

a constitution that contemplates the rights of all the citizens of our country, not just of a section, however large and however abused in the past. To be effective, the Constitution must be rooted in South African history and tradition. It must draw on the traditions of freedom in communities, not just those who at this historical juncture are in the forefront of the freedom struggle.

*There is in fact not a section of the population, whatever its position today, that has not at some time in history fought for freedom.*

Many of the foreparents of the whites who live in the country today were refugees from persecution – the Huguenots who fled from massacre in France because of their faith, the Jews who escaped from pogroms and then from Nazi terror. Thousands of English-speaking whites occupying important positions in the professions and public life, volunteered for military service against Nazism and fascism in Europe and later marched in the Torch Commando against the extension of racist rule in South Africa.

South Africa has had an unusually large number of bishops who have been willing to go against the tide, usually stronger in their own churches than outside, as well as of writers and journalists and lawyers and academics and medical people (even at least one freedom-fighting dentist and two road engineers).

There is not an Afrikaans-speaking white family that was not touched by the struggles over the right to speak Afrikaans and to uphold their Afrikaner identity; Boer heroism against the might of the British Empire became legendary throughout the world, and is part of South African patrimony, just as the concentration camps in which thousands of civilians died are part of our shame.

Workers from all over the world, driven by hunger and unemployment, came to work on the mines in South Africa, where they died in huge numbers of lung disease; hundreds fell at the barricades, gun in hand, as they fought against reduction in wages.

*The tradition of singing freedom songs as patriots faced execution was started by four trade unionists who sang 'The Red Flag' as they mounted the gallows.*

Many South African women joined the suffragette movement and challenged the physical, legal, and psychological power of male rule.

Apartheid has distorted this history, subordinating each and every action to its racist context, suppressing all that was noble and highlighting all that was ugly. The ideals of democracy and freedom are presented as white ideals, the assumption being that blacks are only interested in a full stomach, not in questions of freedom. Daily life refutes this notion. It is the anti-apartheid struggle that has kept democracy alive in South Africa. It is not just the number of organisations that have indicated support for a document such as the Freedom Charter that proves this, but the growth of a powerful, alternative democratic culture in the country. The culture of democracy is strong precisely because people have had to struggle for it.

In the last resort, the strongest guarantee of freedom in South Africa lies in the hearts of the oppressed. It is they more than anyone who know what it is like to have their homes bulldozed to the ground, to be moved from pillar to post, to be stopped in the streets or raided at night, to be humiliated because of who their parents are or on account of the language they speak. Inviolability of the home, freedom of movement, the rights of the personality, free speech – they fight for these each and every day. If the Constitution is suffused with the longing of ordinary people for simple justice and peace, then freedom in South Africa is ensured.

Constitutions can have many meanings. In the first place, they establish the structures of government, and lay down how political power is to be exercised. Yet a constitution does much more than indicate the political and legal organisation of the state. It serves as a symbol for the whole of society, as a point of reference for the nation. People like to feel that they have constitutional rights even if they do not exercise them.

*The existence of a constitution is an indication that society is ruled by steady and known principles and not by the arbitrary whims of persons. Like the flag, the anthem and the emblem, the constitution stands above everybody and everything and symbolises a shared patriotism binding on all.*

The Constitution can also serve as an educator. Its language is appealed to in all sorts of situations, it is studied in school, it integrates itself into the general culture of the society. The language of freedom in the Constitution becomes part of the discourse of the people. In South African conditions the Constitution will in addition be a compact, solemnly entered into by democratically chosen representatives of all the people, emerging out of strife, with the sense of and commitment to the creation of a set of rules in terms of which all can live together with pride and in peace.

Above all, the Constitution is a vehicle for expressing fundamental notions of freedom, at the conceptual, symbolic and practical levels. In South Africa this aspect has special importance. An effective Bill of Rights can become a major instrument of nation-building. It can secure for the mass of the people a sense that life has really changed, that there will be no return to the oppressive ways of apartheid society, while at the same time it can give to those who presently exercise power the conviction that their basic rights can be guaranteed in the future without recourse to a group rights scheme.

For many years, supporters of majority rule looked with suspicion on the idea of a Bill of Rights and the rule of law. On the other hand, proponents of entrenching fundamental rights and freedoms, balked at the notion of 'one person, one vote'. Two currents that for a long time tended to flow in different directions are now joined together. In turn, solving the questions of political rights and of fundamental liberties makes it possible to give guarantees in relation to the aspect of cultural diversity. All taken together make it possible to contemplate manifestly fair procedures for regulating the process of eliminating the inequalities

created by apartheid. The envisaged provisions are not for black South Africans or for white South Africans, but for all South Africans; the last word goes to freedom.