

## Conference Review

# Review of the second annual Ethics SA conference: An investigation of the state of ethics in South Africa

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### ABSTRACT

This review article documents the insights presented by the panel of speakers at the second annual Ethics SA conference, hosted in May 2012. The content pertains to the state of ethics in South Africa, with specific focus on the public, private, and educational sectors. A key finding that emerged from the various contributions is that ethics in South Africa is currently in a dire state, and that this is largely attributable to the apartheid legacy, and to current high levels of corruption and a lack of moral leadership within all sectors.

**Key words:** Apartheid legacy, Corruption, Inequality, Public sector, Private sector, Education, Leadership

### INTRODUCTION

On 25 May 2012, the Ethics Institute of South Africa (Ethics SA) hosted its second annual ethics conference, entitled 'The State of Ethics in South Africa'. This conference, which was attended by a number of influential business, governmental, and educational stakeholders, sought to address the ethical challenges and opportunities defining each of these sectors in South Africa. The contributions by the speakers and panelists were extremely insightful, and a well-balanced, sober picture of the state of ethics in South Africa emerged. In this review article, some of these insights are shared, in order to further the conversation with a wider audience.

### Opening address: The state of ethics in South Africa

Before addressing the aforementioned sectors of interest, Eusebius McKaiser, a political and social analyst at the Wits Centre for Ethics and weekly contributor to the *New York Times*, set the scene for the day-long conference by making two pertinent observations regarding the state of ethics in South Africa. Firstly, he noted the growing gap between our normative aspirations and our lived realities—a gap that is resulting in an ethical crisis in South Africa. Secondly, despite this worrying gap, McKaiser was nevertheless of the opinion that we, as South Africans, have the resources to reduce this gap.

In order to motivate his first point, McKaiser began by drawing a distinction between morality and ethics, in terms of how these concepts are colloquially understood. He argued that whereas morality refers to a set of social norms that cannot be escaped, that capture a wide spectrum of behaviour, and that serve the important function of regulating good behaviour in society, ethics is a much narrower concept, typically (but not exclusively) referring to the ethics of certain professional bodies and codes (i.e. ethics concerns the rules and norms attached to particular disciplines). In terms of South African society, McKaiser argued that, ethically speaking, we as a society are faring terribly, and the primary reason that he gave for this ethical failure was the fact that people do not understand the difference between law and ethics (or, what McKaiser calls, ethics and morality) and that these two categories are often conflated in public discourse. In other words, our politicians tend to see adherence to the law as the only commitment, instead of as the minimum ethical requirement in society. To this end, he used the example of ministers purchasing expensive cars, and justifying their behaviour by stating that such behaviour is not prohibited in the ministerial handbook. He contended that such attitudes also permeate the private sector (although it is often under-reported in this sector), as well as the private lives of

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individuals. This latter contention was illustrated by the high occurrences of violence in South Africa, as gleaned by the fact that South Africa is the most violent democracy in the world that is not presently in a state of war. McKaiser further noted that, contrary to popular belief, incidences of violence are not correlated with poverty, but with inequality.

Given this sad state of affairs, McKaiser went on to explore the second point, namely that we-as a society-have the potential for moral progress, as illustrated by our best ethical achievement to date, namely our radical break with the grossly unethical apartheid system. Particularly noteworthy in terms of this example was the revolutionary manner in which our democracy was born. The New South Africa was characterised by a clear constitutional break from the old system, instead of emerging from a slow and incremental process. Yet, McKaiser contended that our society has not adequately dealt with the psychological scars of apartheid, and societal sense-making must still take place in order to deal with the gap between our normative ideals and our lived realities—a gap that creates the space for violence. Such sense-making should foster a collective understanding of the past, and this understanding should not be read as an excuse for the apartheid system, but as a necessary condition for building on our democracy.

### Building a just economy

Before turning to the state of ethics in government and business respectively, it is useful to reflect on the insights that emerged from a panel discussion on building a just economy, since economic concerns straddle both public and private interests. The persistent effects of our racially divided past again featured strongly in this discussion, which was facilitated by Freek Robinson, a well-known South Africa television reporter, producer and presenter. Particularly noteworthy in this regard is the role of apartheid in creating a deeply divided contemporary society on the basis of income inequality (as reported in the 'Reconciliation Barometer Project' initiated by the Institute for Justice and Reconciliation ([www.ijr.org.za](http://www.ijr.org.za))).

The first panelist, Wiseman Nkuhlu, chancellor of the University of Pretoria and Chairman of Rothschild (SA), introduced his views on the matter by way of Jeffrey Sachs's latest book entitled *The Price of Civilization: Reawakening American Virtue and Prosperity* (Random House, 2011), which deals with how the American elites are pressuring the U.S. government into furthering their interests, to the detriment of the poor majority. Fearing a similar situation in South Africa, Nkuhlu argued passionately for the need to address governmental corruption, private remunerative practices (especially as regards big bonuses), and unjustifiable wage demands made by organised labour. Citing the King III Report, Nkuhlu stressed the need for ethical and accountable leaders, as opposed to leaders who

just follow legal and market trends. Such leaders should put the majority first in conversations concerning future policy directions. Nkuhlu further argued that this broader view should also be reflected in civil society, and that we-as citizens-have a duty to engage deeply on the issues, and to become active citizens and advocates of the public good. As stakeholders of the public and private sectors, we should realise that we are accountable to South Africa as a whole, and not accountable to some narrow interest group. Together, we must nurture a common understanding of our constitutional values, and what these values imply for serving the economy. Nkuhlu is of the opinion that such a common understanding—which should be encapsulated in codes, policies and procedures, and which should be driven by accountable and responsible leaders—can help to diminish the normative gap of which McKaiser spoke in his opening address.

The second panelist, Patrick Craven, COSATU's (Congress of South African Trade Unions) national spokesperson, reiterated the need for a common normative understanding, arguing that the Freedom Charter (which is a statement of core principles adopted in 1955 by the Congress Alliance, which consisted of the ANC (African National Congress) and its allies) can serve as a powerful tool for gauging the state of ethics in South Africa, since it embodies many broad moral principles and aspirations. Reflecting on the state of ethics in our country, Craven applauded our successes in terms of dismantling apartheid, building democratic institutions, and cultivating a vibrant democracy. However, South Africa's economic inequalities serve as a stark reminder of government's failure in reaching its goals and aspirations. This economic inequality is further mirrored by the inequalities that characterise the health and educational systems. Craven also argued that economic inequality in South Africa is still racialised in that the fundamental economic structures have not changed in terms of race or class. Our racialised economy spills over into other aspects of South African society; and, in this regard, Craven cited the still common perception that COSATU is a black party, whereas the DA (Democratic Alliance) is a white party; and, the fact that white people do not view Brett Murray's controversial artwork, 'The Spear', in racial terms, whereas their black counterparts perceive the artwork as disrespectful to a black president. Craven contended that these racially-based perceptions will be dismantled only once our racially-skewed economic system is addressed. A key way in which to go about tackling these economic inequalities is to root out corruption, and to this end Craven argued that the morality of the private sector specifically should come under the microscope, since the values of greed, competitiveness, growth-at-all-costs, and monopolisation fuel corruption, and moreover spill over into the public sector. Craven conceded that problems of corruption are not unique to South Africa (as illustrated by the financial crisis, and the Murdoch scandal), but argued

that just because corruption is part of the status quo, it does not mean that we should not strive for better.

McKaiser was the last panelist to address the challenges and opportunities in building a just economy, and concluded the discussion with three observations. Firstly, he argued that, in ideal terms, a just economy is one in which only two things determine your position in the economy, namely: natural talent and effort. Reasons offered for why we are a long way off from achieving this ideal include the structural hangover from apartheid and post-democratic failures (particularly failures in education). Secondly, the fact that we are failing this ideal is politically significant, because the point of government is to enable its citizens to flourish, and economic injustice means that many citizens are not in a position to achieve their life goals. Lastly, we can work towards attaining the ideal of true economic justice by addressing the structural barriers (including poverty and inequality) and psychological barriers (including feelings of inferiority amongst the disenfranchised) that are currently impeding the establishment of a culture of entrepreneurship, and by reversing the profound moral failures of South Africa's education departments.

### The state of ethics in South African government

The next issue that was tackled at the conference was the state of ethics in the public sector. This issue was addressed from two perspectives: firstly, Richard Levin, professor and former deputy director-general of the Public Service Commission (PSC), offered an overview of the main challenges related to ensuring ethical professional conduct in the post-apartheid public sector. This was followed by an assessment of the state of ethics in the South African government from a civil society perspective, which was given by Sipho Pityana, founder and chairperson of the Council for the Advancement of the South African Constitution (CASAC).

Levin identified three challenges to ensuring ethical conduct in the public sector, which he further elaborated on during the course of his presentation: firstly, as a result of the apartheid legacy, the black population relies heavily on the state for welfare, but also for contracts and patronage. Many people thus view the government as the best pathway to wealth and to goods and services, and reports indicate that a large number of senior officials are doing business with the state, sometimes illegitimately. This has resulted in government becoming a prime site for corruption, which stresses the urgent need for clean and empowering supply chain management processes. Secondly, our material conditions (including intense poverty, unemployment, and systematic, structural inequalities) exacerbate the current ethical and material challenges facing the state. Thirdly, although the mechanisms for improving public sector ethics are in place, these mechanisms need to be deepened and strengthened, and government must move

away from promoting a culture of secrecy (which defined the apartheid government) and must instead become a sphere of accountability.

In assessing the current situation, Levin noted that government has developed a broad suite of integrity-promoting instruments, laws, and processes (of which one example is the requirement that government departments must have anti-corruption strategies, supported by investigative capacity). However, research conducted on the state of professional ethics in various provinces indicates that the development of anti-corruption strategies in departments is uneven, very few departments have standardised investigative procedures in place, there is inconsistent promotion and uptake of the Code of Conduct for the Public Service, the systematic monitoring of corruption is poor, most departments do not have signed protocols with specialised crime agencies, and few provinces fully comply with the financial disclosures filing requirements to the PSC. This research thus indicates that the minimum anti-corruption capabilities are not in place in government departments and, according to Levin, the primary reason for this is insufficient resourcing at a personnel and budgetary level.

Although the PSC has made a number of recommendations for enhancing public sector ethics, Levin specifically concentrated on three main imperatives: firstly, to build leadership that is exemplary, orientated towards public interest, inspirational, authoritative and innovative. Secondly, to address the current structural barriers that make it difficult for the black population to enter the economy. In this regard, the government has an ethical duty to create legitimate opportunities for decent work and economic advancement, since market forces are not adequate in resolving these barriers. The challenge is therefore to use the state ethically, and not in a manner that supports patronage and corruption. Lastly, professional ethics in the public sector must be promoted by investing resources at departmental level and at the level of overseeing agencies. Since resources are limited and the current challenges related to poverty and inequality vast, any resources invested in anti-corruption measures will necessarily have big opportunity costs. Therefore, the challenge in this regard is to demonstrate the value of ethics for the public sector and for society as a whole.

Whereas Levin, as a representative of the PSC, concentrated on the structural challenges to ensuring public sector ethics, Pityana, as a representative of the civic perspective, concentrated in his hard-hitting presentation on the moral failures of our leaders. He started his presentation by citing recent examples of independence issues and conflict of interest issues in government, and continued by sharing some of the findings from the report on 'The Impact of Corruption on Governance and Socio-Economic

Rights' (available at [www.casac.org.za](http://www.casac.org.za)). Significant findings include the following: the African Union estimates that the cost of corruption to Africa is \$148 billion p/a; in 2003, corruption was the second most prevalent crime in South Africa; between 1994 and 2004, R15 billion was lost due to corruption; corruption is currently the most serious threat to South Africa's democracy; and, as a result of corruption, some state institutions are in a dire state, prompting Terence Nombembe, the auditor-general, to state that: 'Governance is so defective that there is virtually nothing to audit, because records are not kept, since employees are not qualified to do their tasks ...' Exacerbating these problems is the delayed response from government in dealing with these problems. This reinforces a culture of impunity, and encourages further corruption, since there are few or no consequences for the perpetrators.

Pityana called corruption a crime against the poor-an organised conspiracy against them-and argued that we should stop using apartheid standards as our benchmark, and instead hold ourselves accountable against the Constitution. He reflected that, without corruption, government would have nothing to fear; government would increasingly view multi-sectoral stakeholders as partners and not as enemies (as is often the case); the rule of law would be upheld; and tenderpreneurship and crony capitalism would be rooted out. Pityana argued that without corruption government would be able to serve the poor and that, consequently, the need to reclaim a society committed to equality, integrity, and dignity remains an imperative. As such, South African citizens must realise that we are custodians of the Constitution (which envisages a participatory democracy). We need a paradigm shift from 'all power to the politicians' to 'all power to the people', since the current status quo further mutes the voice of the people. Our focus should be on the nature of the transgressions, not on displaying loyalty to a certain class of transgressors; and we must realise that just because we are questioning, this does not mean that our loyalty to the government should be questioned.

In order to reach this ideal, Pityana cited the findings of another CASAC report, entitled 'Corruption: Towards a Comprehensive Societal Response', in which it is argued that there is no clear commitment on the part of government that suggests that it is serious about anti-corruption strategies and agencies, and that without such a commitment, we will steadily continue returning to the mediocrity, lack of accountability, and secrecy that defined the apartheid bureaucracy. In order to prevent such a future, the government needs to institute independent private and public anti-corruption agencies; promote transparency and access to information; promote media, civil societies, and NGOs; forge partnerships with other states and encourage mutual legal assistance; and ensure strong checks-and-balances in our state institutions.

### The state of ethics in South African business

Whereas Pityana stressed our civic responsibility in terms of holding government accountable, Theo Botha-a shareholder activist and relentless advocate of good corporate governance-stressed the responsibility that shareholders have in keeping companies accountable. Although other stakeholders and auditors also share this responsibility with shareholders, shareholder interests in particular are closely tied to the future of companies. In material terms, this duty amounts to scrutinising company performance, attending AGMs, raising concerns at these AGMs, and further pursuing action if these concerns are not adequately dealt with. Botha also argued that the King III Report serves as a valuable document that can be used by stakeholders and shareholders alike for keeping boards and company leaders responsible and accountable. According to Botha, one area that should be carefully scrutinised by shareholders is the company's remuneration policy, specifically with regard to doling out bonuses. Citing a number of examples, Botha concluded that, in order to promote ethical remuneration practices and good shareholder relations, short-term bonuses should be linked to key performance indicators; the discretionary power of remuneration committees should be kept in check; CEOs need to be more respectful and empathetic towards stakeholders and should limit the size and number of bonuses awarded to top management during times of corporate downsizing; and big companies should better understand the reputational risks associated with awarding bonuses that cannot be well-motivated.

Futhi Mtoba, chairperson of Deloitte Africa Board and president of Business Unity South Africa (BUSAs), also affirmed the view that company leaders should be held responsible and accountable for company performance and for the company's institutional culture, and that leaders should stop externalising their problems. She further argued that collective action initiatives (such as integrity pacts) can also help leadership in dealing with ethical problems. In this regard, BUSA ([www.busa.org.za](http://www.busa.org.za)), which represents business on macro-economic and high-level issues, and which aims to play a constructive role in nurturing the country's growth, transformation, and development agenda, can act as an important forum, particularly for measuring and analysing corruption in the private sector, and for developing initiatives for rooting out corruption in this sector.

### The state of ethics in South African education

It is widely recognised that rooting out poverty and inequality and developing a vibrant and critical business and political landscape are contingent on education, and indeed this very point was made on several occasions during the course of the proceedings. The last perspective offered on the day therefore dealt with the state of ethics in our educational institutions, and was presented by Jonathan Jansen, vice-chancellor of the University of the Free State and renowned author.

Jansen contended that South African schools (particularly poor schools) have no ethics of work, as there is no active commitment to teaching. This situation, coupled with the government's yearly celebration of what Jansen called our 'fake' matric results (in which a pass is awarded to students who receive +30% for two of their subjects and +40% for three of their subjects, and where some subjects – such as maths literacy and life orientation – are virtually unfailable) are fuelling the education crisis in our country.

There are, however, exceptions to the poor work ethic that characterises schooling. Jansen mentioned the example of the Centre of Science and Technology (COSAT), a school in Khayelitsha that made history for becoming the first Western Cape township school to be named one of the ten top-performing schools in the province. When asked what the reasons for their success were, one teacher answered that 'we were just doing what we were supposed to do'. Jansen used this anecdote to argue that we will reverse the poor work ethic in schools only if teachers show up every day to teach, give daily homework, provide timeous feedback, and become involved in extra-curricular activities. It is these seemingly mundane activities that characterise the simple ethic of work. Jansen argued that without this daily rhythm, one cannot instil the type of ethics of learning so crucial to a democracy. In order to encourage this work ethic, Jansen was of the opinion that union activity (which results in a complete disruption of teaching time) needs to be addressed by government; children should attend the same schools in which their parents teach; and public representatives (such as cabinet ministers) should send their children to public, as opposed to private, schools.

Jansen argued that a challenge to instilling a culture of teaching in our schools is that we cannot recall such a culture in our country due to the past, but also due to the fact that a teaching culture is not born from policy decisions. Rather, such a culture has to do with the type of expectations that learners, teachers, and parents have of schooling. Jansen contended that part of the problem is the systematic downgrading of expectations amongst learners, which is the result of the populist notion that everyone must pass. According to him, such a notion is both anti-progress and anti-black, because it amounts to a complicity of making poor kids dumber due to the systematic downgrading of education in our country. In other words, the lower the bar is set, the lower will be the expectations that learners have

of themselves and of their teachers. Jansen argued that the only way in which to raise the bar again is to tell learners what they can do, rather than what they cannot do (which is currently the case).

This is an imperative if we wish to cultivate a healthy democracy, in which differences of opinion are tolerated, in which citizens conduct their affairs with decency and academic astuteness (both of which are hallmarks of a quality education), and in which leaders serve as role-models. With regard to quality leadership, Jansen again raised the example of 'The Spear', arguing that an educated leadership would have tried to defuse the emotional reactions to the artwork, instead of further stoking the fire. Instead of teaching our children to divide the world up according to race, religion, politics etc., Jansen concluded that we should teach them to think critically, and that we should serve as moral role-models for the youth.

### Concluding reflections

Although each of the presentations given at the conference provided a unique perspective on the state of ethics in South Africa, common themes nevertheless emerged from the proceedings. The presenters were unanimous in the opinion that the break with apartheid presented a significant moral achievement, but it was also very clear from the proceedings that many of the structural and psychological challenges that we are currently dealing with are rooted in apartheid. However, the apartheid legacy was not the only ethical challenge that received attention: the corruption and greed that characterise both the public and private sectors were also identified as significant and worrying obstacles to instituting an ethical culture in our country. Given these problems, we, as a society, desperately need to undergo an ethical shift; and, in this regard, the role and potential value of leadership in bringing about this shift was emphasised, as was the importance of a strong and educated civil society, capable of holding government and business accountable for their actions. As Deon Rossouw, CEO of the Ethics Institute of South Africa, reflected in his closing address: we need a change in convictions that cannot be legislated for.

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