

## **SAPA PR -- ZUMA ADDRESS AT THE BMF SYMPOSIUM**

Issued by: Office of the Presidency

Attention: News Editors

For immediate release:

ADDRESS BY PRESIDENT JACOB ZUMA TO BLACK MANAGEMENT FORUM  
SYMPOSIUM CRAIGHALL, JOHANNESBURG 29 APRIL 2010  
HOW THE SOUTH AFRICAN CONSTITUTION FURTHERS THE OBJECTIVES OF  
SOCIO-ECONOMIC TRANSFORMATION

Deputy Minister in the Department of Land Affairs and Rural  
Development,

Dr. Joe Phaahla

President of Cosatu, Mr Sdumo Dlamini

President of CONTRALESA, Honourable Patekile Holomisa

BMF President, Mr Jimmy Manyi and all leadership,

Members of the legal profession,

Leaders in Business, and civil society,

Good morning to you all

We meet just a few days before we mark Worker's Day, and two  
days ago we celebrated our sixteenth year of freedom.

The Freedom Day celebration was an occasion that reminded us  
of  
what a special and unique people we are. We emerged from a  
horrible  
past of division and pain, embraced the present and began to  
work  
for the future together.

Our Constitution's preamble emphasizes that South Africa  
belongs  
to all who live in it, united in our diversity.

Guided by the Constitution, we have to create a society that  
has  
equal opportunities for all, in all spheres - political, social,  
cultural or economic.

We have one of the most impressive and progressive  
Constitutions

in the world. It has laid a good foundation for our objectives of creating a non-racial, non-sexist, democratic, equal and caring society. Our Constitution is also unique in that it entrenches socio-economic rights, which is one of the key subjects of discussion in this symposium.

The symposium provides an opportunity to reflect on the Constitution, and see how we can promote and strengthen it, as a sacred document that guides our constitutional democracy.

It is also an opportunity to explore what else we could be doing to further enhance the enjoyment of the rights enshrined in the Constitution.

Let me emphasise from the onset that our Constitution is based on a very solid foundation. There has been a long process of developing the human rights culture, leading to a rights-based Constitution.

We can trace the seeds of such a progressive Constitution back to the middle of the twentieth century, to the African Claims document of the African National Congress, adopted in 1945.

The document created a Bill of Rights, demanding equal opportunities and the right to vote, equal education and a share in the material resources of the country.

The link between social services and democracy found further expression in the Freedom Charter adopted in 1955 which also contained a Bill of Rights for a democratic South Africa.

The Freedom Charter is an important historical document of national pride, and forms the underpinning of socio-economic rights contained in the South African Constitution.

In 1988, the ANC published the Constitutional Guidelines for a Democratic South Africa, further entrenching the proposal for a Bill of Rights, containing socio-economic measures to address the transformation of South Africa.

Later in 1990, following the announcement of President Nelson Mandela's release, the ANC tabled its Bill of Rights for a New South Africa.

These historic documents formed the basis of negotiations in the Convention for a Democratic South Africa and later in the Constitutional Assembly finally adopted the Constitution on 8 May 1996.

In one of its notable submissions to the drafting committee of the Constitutional Assembly, the ANC submitted the following on its position on socio-economic rights:

"The new Bill of Rights cannot therefore shy away from including within the scope of its protection, fundamental rights, which, while posing difficulties in enforcement, reflect important principles in the promotion of a society based on justice and equality, a society which seeks to redress the imbalances of the past".

Section 25(5) requires of the state to take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

To meet this Constitutional obligation, one of our priorities is to ensure that land reform through redistribution and restitution, is more coherently linked to the creation of livelihoods for the poor.

Land is linked to development in rural areas. We have recognised that in order to move forward decisively with the land redistribution programme, significant changes will have to be made to the Willing-Buyer Willing-Seller model of land redistribution.

Government is investigating less costly alternative ways of land acquisition, by engaging with all stakeholders within the sector.

The general view is that the Willing-Buyer Willing Seller model has not worked adequately thus far. We are working on a much more pragmatic formula to land redistribution.

It will be a formula that should address the issue as part of our country's ongoing effort at national reconciliation. It should also not be seen as a super-profit-making business venture but one which assists to achieve goals faster, within the ambit of the law.

Sections 26(2) and 27(2) place the state under an obligation to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the rights to have access to adequate housing.

Other sections deal with health care, sufficient food and water as well as social security including, if they are unable to support themselves and their dependants.

The socio-economic rights of children include the right to basic nutrition, shelter, basic health care services and social services.

Children's socio-economic rights are thus also interpreted as subject to reasonable measures and are subject to the state's available resources.

These rights are also not immediately realisable, but need to be progressively realised by the State.

Next month we will focus strongly on the rights of children

as

we mark Child Protection Week. All sectors including government will be looking at how these rights can be used to protect children further.

Amongst other issues in the celebrations, we will be highlighting the possible unintended consequences of the 2010 FIFA World Cup for children.

Such tournaments, unfortunately, also open up opportunities for people who engage in child trafficking and other crimes to target children. Naturally, our Constitution does lead to some challenges. The socio-economic rights are enforceable to an extent, and the power is vested in the judiciary to enforce these rights.

There is always a concern that the courts will encroach upon the domains of the legislature and the executive, and breach the doctrine of the separation of powers.