

"ICJ Present at the Inauguration of President Mandela of South Africa"

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INTERNATIONAL COMMISSION OF JURISTS

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SOUTH AFRICA, APARTHEID AND THE ICJ

Five days before President-elect Nelson Mandela was to be sworn into office as the first democratically elected President of the Republic of South Africa, an invitation was received by the ICJ in Geneva to send a representative to witness this historic event.

The invitation was not unexpected. From its very origins the ICJ had worked for change in South Africa. At its own inaugural meeting in 1952 the ICJ adopted a strong commitment to combating racial discrimination. Back in 1952 that was quite forward looking, and especially in relation to South Africa. The ICJ never let up in its resistance to apartheid. It sent an observer team to the mass trials at which Mr Nelson Mandela and 154 other defendants, many of them leaders of the freedom struggle were acquitted. One of the observers at that trial was Mr Edward St John QC, at the time, an Australian member of the ICJ. Other ICJ observers went on to high legal office, including Mr Gerald Gardiner QC, who later became Lord Chancellor of England and Mr Elwyn Jones who became Lord Elwyn Jones and Solicitor-General of Britain.

In 1962, when Nelson Mandela was re-arrested, charged and convicted of treason the ICJ also observed his trial. Little could he or the other prisoners have imagined the struggle that lay ahead and the culmination to be symbolised by the inauguration of President Mandela and the new Government of National Unity.

In the many years after those trials of the 1960s, the ICJ was involved in many missions, trial observances and other activities in and out of South Africa designed to support and stimulate the processes of change by lawful and constitutional means.

In 1990, an ICJ mission published its report *Signposts for Peace*. In 1992 a further mission published a report *Voting for Peace*. These reports made important suggestions for the conduct of the free and fair elections which were successfully completed in 1994.

The ICJ arranged for a team of observers to be present in South Africa during April 1994 to monitor the first democratic elections. The team was headed by Mr William J Butler, President of the American Section of the ICJ and past-Chairman of the ICJ Executive Committee. The ICJ observers reported that, in their opinion, the South African elections were "substantially free and fair". Their full report will be published later. It is hoped that it will contribute to the electoral process in other African countries moving towards democracy - including Malawi which had its first democratic election on 17 May 1995. With discouraging news from Rwanda and Somalia, South Africa stands out as a beacon of Good Hope for Africa.

AN INAUGURATION OF GOOD HOPE

On 10 May 1994 it seemed as if the whole world was rushing to Pretoria. The car carrying me from Jan Smuts Airport at Johannesburg sped past the symbols of the new South Africa. The large posters of Nelson Mandela surrounded by children of every race. The bright new flag: superimposing a black, yellow, green and white wedge upon the old flag of Holland. Holland's flag of the doughty Boers - first raised by Admiral van Riebeck at the Cape in 1652 is still there - but in the background now. A hoarding by the road carried the salutary warning to the new voters of South Africa - who in their millions and in patient queues had voted for the first time: "Make sure all your crosses do not add up to naught".

At a sports stadium near central Pretoria we alighted to receive our seating. Young attendants greeted this huge influx of visitors with cool efficiency. Then into a

bus which was sealed to ensure total security at the site of the inauguration. About me many familiar faces: Ex-Mayor Daley from Los Angeles, David Lange from New Zealand, Julius Nyerere of Tanzania, Jim Callaghan of Britain - who had stuck fast by sanctions when Margaret Thatcher urged their end.

On the way up the hill to Sir Herbert Baker's Union Buildings the manicured lawns of Pretoria passed by. A jogger ignored the traffic jams. A group of white South Africans were playing tennis. Did they deliberately disdain the momentous events of this day? Or was this the ultimate symbol of an assurance of safety: that ordinary life goes on even in the midst of historical events?

Down "Government Avenue". On each side soldiers. But then the eye is caught by the appearance of some of them. Multi-racial - but the SA Security Forces have long been that. Between the neat soldiers of the regular army, bearing arms, were the soldiers of *Umkhonto we Sizwe* (Spear of the Nation) - the military wing of the ANC. They would line the way of Mandela and De Klerk as they came to the Union Building for this day.

And there it was: just as Baker had planned it. Dominating Pretoria. The symbol of solid Executive Power of the Union of South Africa. The twin towers of the Building designed to show the unity of the two races, which the Union had brought together after war. South Africa's history has always concerned race. The scene for the inauguration was full of the symbolism of the white rulers of the old South Africa. It was from these buildings that the State Presidents had sent their orders which translated their dream of apartheid into its awful reality.

We sit in the sunshine. The sky of Africa seems somehow bigger and brighter this day. Not a cloud interrupts the sun, smiling on the gathering thousands. The Great and the Good arrive. Bhoutros Boutros Ghali takes his place. Arafat sweeps by. Prince Philip raises a cheer from the crowd. The choir sings "*Land of Hope and Glory*", as if to remind the large Francophone contingent of the other race of whites who left their mark at the foot of the continent. "*By freedom gained; by truth maintained*", the tenor booms out. Then Fidel Castro - long-time supporter of the

ANC cause, takes his place of honour. At the back, the crowd chants his name. He stands. Waves. And then his wave turns into the clenched fist for the revolution. Al Gore and Hiliary Clinton enter surrounded by their guards. Still the sun beats down.

An hour late, the Executive Heads of the new South Africa come. De Klerk, Mbeki and then, to rapturous cheers, the man of the hour - Nelson Mandela. From prisoner to President in four years.

ANTHEMS, HYMNS AND PRAYERS

A hush falls upon us all. We realise the symbolism of what is about to occur. Only those who have known the history of South Africa can fully appreciate all the symbols. The choir strikes up *Die Stem* - the anthem of the Afrikaners so hated in the past by the ANC. Self-consciously at first, but then with pride, South Africans of all races join in - a gesture to their white co-citizens. And soon the gesture was returned. *Nkosi Sikelel'iAfrika* - National Anthem to four other African states - booms down from the hill, reverberating around the amphitheatre formed by the Union Buildings. God bless Africa!

This is still a very religious country. Religion is a bond which all races share. The Hindu prayers urge that peace should come. The Islamic prayers enjoined: "Let us know and understand one another". The Chief Rabbi, in a soft Scottish burr, read slowly from the Book of *Isaiah*. "Violence", the Prophet promised, "shall no more be heard in the land" and "the work of righteousness shall be peace". Archbishop Tutu, in crimson robes, began his Christian prayers in Afrikaans. Then he broke into Xhosa. And then in English he declared that we were all witnesses to "a miracle unfolding".

De Klerk took his oath in Afrikaans. It sometimes sounds harsh to our ears. But it is strong and enduring: an indelible part of the African scene today. Mbeki took his oath and was followed by the man of the hour. In total silence the assembled Kings, Princes and others - the thousands in the park below and the millions in South Africa and beyond - heard him call for a new Covenant.

"We enter into a covenant that we shall build a society in which all South Africans, both black and white, will be able to walk tall, without any fear in their hearts, assured of their inalienable right to human dignity - a rainbow nation at peace with itself and the world".

At the mention of the Covenant, my eyes leapt away from Mandela's face to the far side of the Pretoria Valley. There on the top of the ridge is the Voortrekker's Monument. At Blood River a hundred and thirty years ago the Boers swore a Covenant of their own. If, in their perilous lager, they could only overcome the numberless Zulus, they would dedicate their land to God. The monument remains. But now there is a new Covenant - a rainbow Covenant in which all South Africans can share.

The speeches were over. The old and new anthems were sung again: but quietly and more solemnly this time. The princes and the captains begin to depart. The new Head of State is surrounded by his generals. Gleaming in the sun are the medals which they won fighting to stave off this exquisite moment.

Then, in the distance, the hum of engines. Overhead come streaking the helicopters, other aircraft and jets. The Security Forces pay obeisance to the democratically elected civil power. From the last of the jets the rainbow colours of the new South African flag fill the sky. "These used to be our enemy", explains a neighbour who had fought against the armed services of South Africa. "Now they serve us all".

And so we repaired to the Smuts lawn. Hearty Cape food was washed down with the splendid wines of South Africa. Dr Boutros Ghali - himself a past ICJ Commissioner - welcomed the return of South Africa to full membership of the world community. Officials could be seen in earnest conversation with their new Ministers. Even a little lobbying was taking place for the many posts which the new Government must fill. The string orchestra played sweet melodies from far-away Europe. The new President, fully installed, mixed effortlessly and with grace amongst his guests.

He spoke to the masses on the lawns below. The only individual he singled out was De Klerk, "not the least among" the leaders who brought about this transition. And then, suitably enough for South Africa, he left for a football match which, happily, the home side won.

This was a day of tremendous energy and spirit in South Africa. May those forces last in the hard times ahead. Times of high expectation and demands for equal justice. The African poet who spoke at the ceremony called Mandela a leader "made of diamonds and of gold". His spirit of reconciliation and determination is certainly needed as he takes up the reigns of real power. The words of Archbishop Tutu are particularly apt: "Bless our President with wisdom and good health". Amen to that.

Before departing South Africa I addressed a meeting of professors, legal practitioners and students at the University of the Witwatersrand. That university has been foremost in combating racism in South Africa. I urged further legal reform and renewal. I proposed that a fully established South African Section of the ICJ should be created by lawyers of all races with a commitment to the rule of law, human rights and the independence of the judiciary and of lawyers. Out of the terrible past I hope there will arise a nation dedicated to these aspirations. In the years to come the judiciary, the rule of law and human rights in South Africa will need great support.

Justice Michael Kirby is President of the Court of Appeal of New South Wales, Australia. He was invited to the Inauguration in his capacity of Chairman of the Executive Committee of the International Commission of Jurists.