

skills development actors and stakeholders, there is a tendency to emphasise the traditional formal routes to skilling and its purpose as leading to employment in the formal labour market.

Towards inclusivity

Skills development must also respond to the twin challenge in the South African economy which involves participating in a globally competitive environment that requires a high skills base and a local context that creates low-wage jobs to absorb the large numbers who are unemployed or in vulnerable jobs. Unfortunately, this paradox has been interpreted in skills policy similar to the way in which the relation between economic growth and inequality has been conceived - that investments in higher education would have a trickle-down effect for growth, inequality and unemployment.

Our analysis suggests that such a skills policy system emphasis, alongside critical policy silences (around key target groups and the explicit identification of poverty, inequality and unemployment as policy goals) has limited the contribution that skills development legislation and policy can make towards addressing poverty, inequality and unemployment. The full report presents a more detailed description of the nature of these obstacles and our recommendations around how to address them within the policy system.

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SOCIAL COHESION AND NATION BUILDING: Can legislation help?

More than two decades into a post-apartheid dispensation, South African society is still very fragmented, with division being fuelled by poverty, racism, inequality and misunderstanding between ethnic and cultural groups. Contributing to the Motlanthe High Level Parliamentary Panel report, HSRC researchers assessed the impact of legislation on social cohesion and nation building in South Africa since 1994. *Dr Gregory Houston* reports.

Despite social cohesion and nation building becoming significant themes in the national discourse since 1994, as well as significant efforts to promote social cohesion and nation building,

South Africa remains a deeply divided society.

The divide, created during the previous dispensations through racial discrimination and the denial of socio-economic, political and civil



'It is your duty to care', reads a poster held by a protester during the Zuma-must-fall march in Cape Town in April 2017.

rights to black people, is even perceived by some to have worsened.

The HSRC research team provided research support for the analysis of key legislation and inputs into the Motlanthe Panel's processes, including submissions at public hearings, written submissions, and presentations at roundtables. Looking at the historic, current and future factors that influence relations in the country, the aim was to assess the impact of legislation on social cohesion and nation building in South Africa since 1994, and for the panel report to produce recommendations that would accelerate change.

Threats to social cohesion

Apart from enjoying equal socio-economic, political and civil rights in a non-racial and non-sexist society, social cohesion will only come about when South Africans have a common perception of the nation, when they trust institutions and when they live in integrated human settlements.

However, the researchers identified several threats to social cohesion, including a sharp increase in acts of racism in recent years as well as class divisions due to increasing inequality and poverty, which are creating an explosive situation. High levels of xenophobia and competition for resources with foreign migrants cause social fragmentation and the country has 11 official languages that are associated with different race and ethnic groupings. There is a growth in vulnerable and marginalised communities who are excluded from socio-economic opportunities, as women still are. Finally, vulnerable and marginalised communities still have unequal experiences of the law compared with those from wealthy communities.

The Social Assistance Act

In their focus on socio-economic rights, the researchers noted that

“CHALLENGES INCLUDE ENDEMIC CORRUPTION, LIMITED ACCESS TO INFORMATION, A LACK OF ADMINISTRATIVE JUSTICE AND CONSTRAINTS ON PUBLIC AND COMMUNITY PARTICIPATION.”

there were several challenges with the Social Assistance Act (No. 13 of 2004). The panel report also recommended several amendments to the Act and steps to be taken to improve implementation. An example of the former is the recommendation to amend the Act to enable teen mothers and child-headed households to receive the child support grant simultaneously for themselves and the children in their care, while an example of the latter is the recommendation to index social assistance grants against inflation.

Eliminating discrimination

The right to equality is the fundamental constitutional mandate underlying all legislation, policies and programmes related to the elimination of discrimination. There are several challenges in this area, including racism, racial discrimination, xenophobia and related intolerances; gender discrimination; discrimination against refugees and migrants; discrimination against members of the lesbian, bisexual, transgender, queer and intersex (LBTQI) community; discrimination against children and youth; discrimination against older persons; and discrimination against people living with disabilities. A total of eighteen relevant Acts were considered here, and recommendations were made to amend or repeal legislation, and to improve implementation.

The LBTQI community case

The researchers identified policy goals underlying the relevant legislation in each area where challenges were identified, for

example with regard to discrimination against members of the LBTQI community. South Africa is one of the first countries in the world to explicitly enshrine in law the rights of people who identify as gay, lesbian or bisexual, or who practice same-sex sexuality. However, they continue to face discrimination, violence and homophobia in their daily lives. There are several challenges in existing legislation that affect members of the LBTQI community, including the Alteration of Sex Description and Sex Status Act (No. 49 of 2003), which often forces couples to divorce following a gender description change and makes no provision for any person who does not wish to be identified as male or female. There are several challenges in the implementation of existing legislation that affects members of this community, including the discriminatory manner in which officials of the Department of Home Affairs interpret the Alteration of Sex Description and Sex Status Act, leading in some cases to individuals undergoing intrusive medical surgery, which they may not have wanted to subject themselves to. Consequently, the Motlanthe Panel recommended several amendments to the Act and the recommendation that Parliament should consider having a once-off public hearing with the relevant departments and stakeholders to obtain feedback from departments and input from the public on progress with the implementation of the Act.

Active citizenship and corruption

Accountability, responsiveness and openness are values in the Constitution that aim at building democracy through active citizenship and governance. These values are enshrined in various sections of the Constitution, including the right of access to information held by the state (Section 32), the right to 'just' administrative action (Section 33), and the right to participate in some activities of parliament (Sections 59

and 72). However, these values are challenged by endemic corruption; limited access to information; a lack of administrative justice in many areas; and constraints on public and community participation. A significant number of the written submissions made by the public at public hearings organised by the Motlanthe Panel raised concerns about corruption, including corruption of ward councillors, the appointment of school principals, processing of asylum seekers, in processes assisting disaster-affected communities, in issuing drivers' licences, at police stations, by traditional leaders, and in the implementation of land reform.

Despite the explicit constitutional right to access to information and the provisions of the Promotion of Access to Information Act (PAIA), there have been problems in the implementation of the Act and its use has been limited. Also, despite the existence of several laws enjoining institutions to promote public participation, the resources to do so are inadequate. The Motlanthe panel recommended that: 'Parliament should consider identifying and reviewing all legislation that includes a public participation component, including those that relate to Parliament's interaction with citizens, and ensure that it conducts oversight of and the provision of adequate resources for the implementation of these provisions, so that where provision is made for the public to be consulted, this consultation is meaningful and effective.'

Figure 1: Key fault lines during the apartheid era

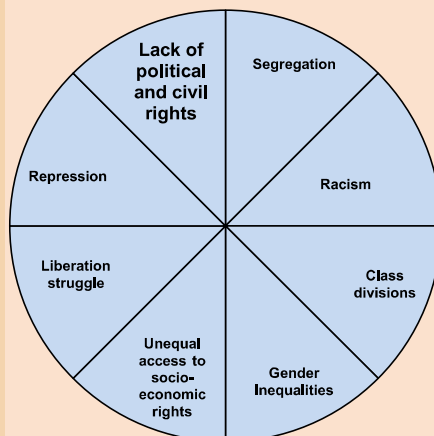
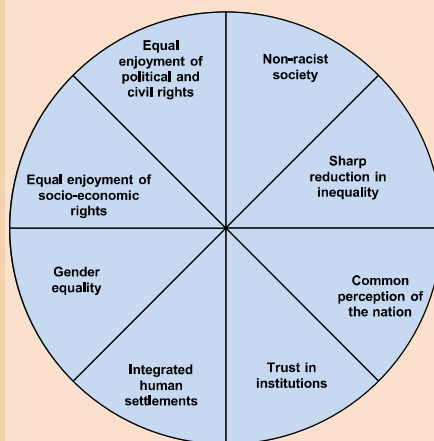


Figure 2: Characteristics of a social cohesive and united South Africa



Parliament's role

Although no constitutional mandate exists to encourage nation building, there are several provisions in the Constitution that have a direct bearing on social cohesion and nation building, including the preamble, the affirmation of 'non-racialism' and 'non-sexism' as foundational principles in Section 1, and Section

3(1), which declares that '[t]here is a common South African citizenship'. The HSRC research team noted that South Africa has several nation building policies, including education and language policies. Attention was drawn to the lines of fracture during the democratic era. Statistical data drawn from several sources indicate that very little has been achieved in the country's nation building project. The most significant recommendation made in this regard was that: 'Parliament should consider institutional measures to enable it to play a more active role and to more effectively oversee and monitor implementation of key legislation, and this could include: enabling Parliament to promote a common vision and take lead of the process of nation building by holding annual public hearings on social cohesion and nation-building.'

The HSRC research team that contributed to the Diagnostic Report and chapter on Social Cohesion and Nation Building in the Motlanthe Report included Dr Gregory Houston, chief research specialist, Dr Stephen Gordon, post-doctoral research fellow, Dr Yul Derek Davids, chief research specialist, Prof. Joleen Steyn-Kotze, senior research specialist, Adv. Gary Pienaar, senior research manager, Prof. John Stanfield, research director, Dr Tyania Masiya, post-doctoral research fellow, Marie Wentzel, chief researcher, Johan Viljoen, senior researcher, and Thabani Mdlongwa, researcher, all from the Democracy, Governance and Service Delivery programme.

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