

# CIVIL SOCIETY IN EMERGING DEMOCRACIES

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**W**e have all at one time or another, in one form or another, experienced the exhilaration of liberation - when people's power has emerged as an invincible force, born out of a purposeful unity forged by women and men in pursuit of freedom and justice. We have celebrated victories which have humbled tyrannical power, that had appeared to be indestructible, in country after country, yet the fruits of victory have often proved to be all too elusive. Tyranny and injustice are re-born in new guises and behind new masks. The question which faces us is how can people's power be made to endure, so that it can build a society in which freedom and justice will be sustained in enduring institutions.

It will no longer do to present formula answers to this question by simply prescribing empowerment, participation, democratization. No, these have been all but reduced to slogans to which lip-service is ritually paid, but little is done to make them living realities. Let us instead think of strategies. Let us learn from successes and failures. Failures are many, but there are some successes.

We need to recognize the imperative of nurturing in civil society a durable unity based on a sincere commitment to certain core human values human dignity and the fundamental rights that derive from it, equality of all persons-women and men, equality before the law, equality of opportunity the rule of law including independence of the judiciary. This unity must transcend the diversity of ethnicity, gender, religion or political affiliation which tend to divide us. We must be vigilant to ward off the threats to this unity and assaults upon it from those powerful forces who feel threatened by a strengthened civil society. These forces exist in every society, a mutually supportive alliance of power and wealth, which are self-serving and willing to use any means to achieve their purposes. Examples abound of how they promote violence, discord and division by inciting communal and ethnic conflict, thus undermining the development of democratic institutions. Where these forces prevail we witness the phenomenon of the cartelization and criminalisation of politics, and the consequent disempowerment of people and weakening of civil society.

Societies engaged in transition from an authoritarian to a democratic political order face a formidable challenge. The institutions, values and mind-sets which are the legacies of the past persist. Traditions of arbitrariness, secrecy, decision-making without consultation and open debate, and lack of accountability impede the building of a framework of good governance in which democratic institutions can be nurtured under the rule of law.

The positive lesson to be learnt is for us to remain steadfast in our commitment to the core human values so as to never compromise

these values for short-term political or commercial advantage, or in response to narrower, parochial, partisan or communal loyalties.

Indeed, even more substantial are the lessons to be learnt from those who are being innovative in designing constitutional provisions and participatory institutions which inspire and enable ordinary citizens-women and men-to be pro-active in promoting and protecting human rights their own and those of other women and men and in the exercise of their own rights as citizens. The new South African Constitution adopted last year has a number of such provisions which secure for members of civil society access to information, access to the courts to enforce fundamental rights, and access to the legislative process itself. Thus, Article 32 provides that everyone has the fundamental right of access to any information held by the state. Article 38 provides that any person who may approach a competent court for enforcement of fundamental human rights and any person acting in the public interest, or anyone on behalf of another person who cannot act in his or her own name, or anyone acting as a member of or in the interest of a group or class of persons- thus elevating public interest or social action litigation into a constitutional remedy; and Article 59 guarantees public access to the legislative process by providing that the National Assembly must (a) facilitate public involvement in the legislative and other processes of the Assembly and its committees, and must conduct its business in an open manner and hold its sittings, and those of its committees, in public. This faith in the people and in civil society is a fundamental pillar of the constitution.

Dr. Ambedkar, who was the architect of the Indian Constitution in a memorable statement after the launching of the Constitution said: "we are going to enter into a life of contradictions. In politics we shall have equality, and in social and economic life we shall have inequality. We must remove these contradictions at the earliest possible time." In a more emotional vein he said "If atrocities against the impoverished and oppressed untouchable do not stop, I would myself like to burn the Constitution."

Many of us share this sentiment, at sometime when we see provisions in constitutions which proclaim that all power belongs to the people and guarantee fundamental rights, including economic and social rights, merely on paper. The proper response is not to burn constitutions, but to make them living realities, through citizens resolving to play a pro-active role as members of a vibrant civil society so that the pledges-that 'we the people' (the opening words in most of our constitutions)-had made to ourselves -may be truly fulfilled. ■