

It would seem that relative calm and tranquillity have returned to the South African universities following the students' protests and marches that engulfed the campuses in the name of the so-called #RhodesMustFall campaign, which started at the University of Cape Town in 2015. What began as the #RhodesMustFall campaign turned into a #FeesMustFall campaign as student protests gained momentum and moved from campus to campus throughout the country.

More than 20 years of independence has passed without any meaningful outcry for transformation from the young students at our universities.

One would have expected the national transformation agenda to have been led by the youth of South Africa, especially those studying at our universities and other institutions of higher learning, since they are regarded as the country's future leaders. However, when the students eventually heeded the call to address the lack of transformation on their campuses, they became uncontrollable and destructive. They defaced statues such as those of Cecil John Rhodes and other leading figures and championed their removal from the university grounds.

The student protests presented university workers with an opportunity to violently raise issues about their longstanding contractual grievances with their university employers. They joined in the destruction and torching of university property such as libraries and classrooms to make their demands heard. On some campuses they went on the rampage, destroying symbols of colonialism and apartheid. They were no longer willing to be passive acceptors of the embedded symbols of oppressors whose legacy was legitimised and perpetuated by the generations upon generations of former slaves and the oppressed.

There is a growing feeling among university students that the colonial and apartheid culture continues to permeate the corridors of campuses in South Africa and that it must be destroyed. It is believed that a new culture must be created that will be acceptable to South African students from all walks of life. According to some students, allowing the Afrikaans language to reign supreme at the expense of the ten other official languages on campuses is tantamount to institutionalising its cultural preferences at the cost of the others.

At the centre of the student demonstrations is the protection offered by the South African Constitution: the imposition of an exclusionary system that neither embraces diversity nor fosters equal respect for all races and languages is deemed unconstitutional and therefore unacceptable.

The same demands for equality were raised by young South Africans 40 years ago – on 16 June 1976. One would have thought that those leading our universities today would have learnt something from that historical event.

The equalities derived from and protected by our democratic constitution must be harnessed to place all our official languages on an equal footing. That this has not happened at tertiary level is largely due to there being neither the will nor the vision to do so on the part of the leaders of our academic institutions. There is simply no well-articulated agenda for a shared prosperity through equal education in South Africa.

South African campuses are a tale of two cities: one city representing white students who are way above their black students both materially and academically because of the historical privileges created during the apartheid era; other city populated by black students who are poor, unequal, unemployed and have had very few opportunities to enjoy the same status as their white counterparts. And the chances of the black students' catching up under current circumstances are zero unless something drastic happens to change the rules of the game in our socio-economic terrain.

One positive step in this direction is that black students have 'captured' and now control the political space, one that is no longer contested by their white counterparts nationally. However, the crucial economic space is still firmly in the hands of white people, and they are not in any way ready to let go of it. For black people, political power would best be consolidated and supported by economic ownership. Economic control helps to build wealth, set up a development agenda, restore self-confidence and promote self-actualisation. In any revolution, the control of the land and its resources is meaningless unless it is in the hands of the majority of the populace. The lack of control over the economy, and over the land in particular, renders future prosperity unlikely, unless it is genuinely addressed. After 20 years of democratic government, however, white male dominance over the means of production is still a reality and white culture, language and traditions still dominate the corporate world – even the production of ideas. As Marx and Engels pointed out in their book *On Historical Materialism*, 'the ideas of the ruling class are in every epoch the ruling ideas; i.e., the class which is the ruling material force of society is at the same time its ruling intellectual force.'

It is worth mentioning that the #RhodesMustFall campaign did not receive total acceptance and blanket support from the historically black universities. At a number of the meetings of solidarity that were held on various campuses around the country a preponderance of black students from historically white universities were in

attendance. It is important to state that at present anyone is free to attend a university of his or her choice; however, the reality remains that black students who study at historically white universities regard themselves as more privileged and better placed to be the country's future leaders than those who attend historically black universities. Those who pursue their studies at historically black universities regard themselves as the underprivileged class; they therefore tend to harbour animosity towards their counterparts at historically white universities.

While students at historically black universities may share the same skin colour as and sympathise with the black students of historically white universities, the day-to-day challenges that face them are somewhat different. In the first instance, the conditions at historically black universities are still worse than those at the more 'privileged' institutions. A lack of funding has been and remains a perennial problem that dates back to the pre-independence era. This leads, inter alia, to under-resourced libraries, a dearth of qualified staff, and a low output of graduates that remains a challenge and results in larger numbers of students not being able to finish their studies within the prescribed time owing to a lack of financial support.

The equalisation of the two different 'cities' can be achieved only if there is a serious national call for change that is responded to by strong vision from the government to close the gap between the privileged and the poor. The continuing poverty, unemployment and landlessness undermine the self-worth and dignity of the majority of the black people in South Africa. The white population has to acknowledge this reality by working with black people to change the existing economic imbalances in South Africa, otherwise the current democracy we enjoy will not survive for long, leading to a future too ghastly to contemplate.

Evidence of the existing imbalances is that there are too many black graduates who cannot access the job market. Given this situation, neither our government nor business can afford to hire graduates from outside South Africa: doing so would be tantamount to funding an educational system that the country does not have confidence in, nor in its products. It is high time that the government approached the captains of industry to work out solutions to the high unemployment rate among our black youth and find a reprieve by way of creating training and employment opportunities for qualified black graduates. If graduates and non-graduates from outside can obtain permits to work in South Africa when our government is not in a position to help its own, then something is seriously wrong, especially given the current high the rate of unemployment.

In response to the high unemployment among young South Africans, there is a perception that the youth of South Africa are not industrious. This is a fallacy. Unfortunately, however, this fallacious perception is preached by South Africans themselves. Instead of telling the truth – that the reason why certain employers prefer to employ young people from other African countries is that their labour comes cheap and they are prepared to settle for any form of payment just to live in

South Africa – the blame is placed on a lack of suitable, qualified local candidates. It is common knowledge that the cheap labour that South Africa receives from its neighbours and beyond is largely thanks to the failed economies in those countries. Apart from ruinous government policies, the looting of state coffers continues to be the order of the day. To avoid a repetition of the Arab Spring of 2011, we need to rethink our entire educational system, transforming it from one that prepares learners and students for employment to one that promotes the desirability and possibility of self-employment. In this respect, the sciences and mathematics must remain the core of our curricula, from pre-school to the tertiary level. The sciences will remain the pillars of socio-economic transformation in any country. Together, science and mathematics stimulate minds towards the kinds of innovation that propel development and the expansion of the economy in any society.

Despite the concerted effort that government and others are making to uplift those in our universities and adult education centres who do not have the requisite resources, the student dropout rate remains high; and if democracy does indeed thrive better within an educated and well-read society, then resourcing our institutions is what must be prioritised. Armed with a good education system, black people will be placed in a stronger position to extricate themselves from the poverty, inequality and unemployment that has been their legacy. For their part, the white community must also accept that black people can no longer sit back and watch them in admiration as they continue to live a first-world life while abject poverty still prevails in black communities.

The topics presented for this publication are all driven by forces of evolutionary and revolutionary transformatory change that dictate, the direction of #Rhodesmustfall and #Feesmustfall campaigns, in the domains of history, politics, economics, law, religion, social development and so on. They are driven by the permanent laws of dialectic discourse that bring about changes in life generally through the kind of intellectual investigation that leads to the exposure of false beliefs and in the end elicits truth. Which is, I trust, at the heart of what this journal strives to achieve.

This editorial serves as a prelude and introduction to the articles published in this issue of the *Journal of Law, Society and Development*. This third issue continues to build on the tradition of multi-, inter- and trans-disciplinarity set by its predecessors. It brings into perspective regional, national and international discussion on globally and regionally interconnected topics as diverse as ‘Oil in the Gulf of Guinea States and South Africa in the matrix of overlapping membership of African regional communities: An impediment to regional integration?’, ‘Force majeure, Change of circumstances and termination of contracts’, ‘An evaluation of the consolidated National Security Bill for Lesotho: Part 1’, ‘UNCITRAL model law on international commercial arbitration: Interpretation, general principles and arbitrability’, ‘Regional harmonisation of contract law – Is it feasible?’ and ‘The

attitude of OHADA law countries towards the CISG', on the one hand, together with articles covering subject-matter as wide-ranging as 'The role of local government in strengthening democracy' and 'The United Nations Convention on the Use of Electronic Communications in International Contracts at ten: Practical relevance and lessons learned' on the other.

These articles contribute immensely to the formation, development and expansion of existing knowledge, which is invaluable to current scholarship both nationally and internationally. They should have the effect of enriching research and tuition and broadening the frontier of epistemology by calling for further discussion and research in these diverse fields. I trust that you will find this to be so as you read the contents of this the 2016 issue.

Thoahlane Thoahlane  
Founding Editor-in-Chief