



# Raising the Suzman standard

SA society would benefit greatly if public servants followed her admirable lead, says **Mamphela Ramphela**

**A**LTHOUGH tributes to Helen Suzman have poured in from around the world for her contribution to the struggle against apartheid, as well as her consistency in speaking truth to power, I would like to focus on her as an exemplary public servant.

Our young democracy's success in wrestling with the challenges of living out our dreams as a free people depends on a dedicated, professional civil service. Suzman was ahead of her society and fellow politicians in understanding the importance of respecting the fundamental principles of human rights and their application in holding those in power accountable.

She was also strategic in using the pretence at democracy and respect for the rule of law under apartheid to challenge the idea that the executive and legislative arms of government were entitled to act with scant regard for justice against those not represented in parliament.

She took it upon herself to act as the public representative of the voiceless majority in a passionate, reasoned and effective manner. She modelled public representation ahead of our constitutional democracy.

It's often forgotten that Suzman, by her own account, was a product of a racist, chauvinistic and apathetic family and society. As a recent Lithuanian immigrant Jew, her father was not impressed with her choice to enter political life to try to change the system.

She could so easily have done what the rest of her peers in comfortable white society were doing — nothing.

But Suzman's life embodied the words of the celebrated African poet, Ben Okri, that "You can't remake the world without remaking yourself. Each new era begins within. It is an inward event with unsuspected possibilities for inner liberation."

She was a free spirit long before the advent of our formal democracy in 1994.

It's instructive to examine the conduct of our post-apartheid MPs against the Suzman standard. Suzman's point of departure was that public service was a calling to do the best with the means at

one's disposal to advance justice and dignity for all South Africans. She refused to restrict her brief to representing the interests of her constituency of Houghton that elected her.

She made herself accountable to all South Africans, especially those whose voices were silenced. The contrast with the majority of our parliamentarians, who use proportional representation and the party-list system as an excuse for focusing on narrow party-political interests, could not be greater.

How many are prepared to stand up for the least among us without worrying about the risk of upsetting party leaders and thus jeopardising their careers?

Using our constitutional democracy as a platform for vigorously campaigning for the translation of freedom into sustainable development for the least among us seems to be far from many of our MPs, whose focus is on their own interests.

Suzman stretched the bounds of possibility of using the system to better the lives of individuals by arming herself with knowledge of the parliamentary and legal systems. She knew more about the law and parliamentary procedures than many of her adversaries in parliament.

In addition, she had a very disciplined and hard-working research team, which ensured that her interventions were based on facts and solid analysis.

She undertook field visits to see for herself how those vulnerable to abuse of power really lived. Her questions were sharpened by her deep insights into the cases she was raising.

Again, how many of our current MPs actually go out to see for themselves how

public service delivery really works on the ground? How many go beyond the numbers provided by bureaucrats of what has been delivered to assess the quality and impact? How many have been inside a school that is falling our children? How many have walked the corridors of public hospitals that are not living up to the *Batho Pele* (People First) slogan?

Suzman was a hard worker. As a lone opposition MP for many years, she was able to take on the National Party juggernaut by outperforming them on all fronts. She read all documents and got analysts to help to find holes in some of the statistics presented in order to challenge the assumptions underpinning the logic of apartheid. She was also present and alert in every important session and debate in parliament.

She was a formidable opponent because hers was a fact-based approach to parliamentary debate and questions.

How many of our post-apartheid MPs can boast such a record?

There are many dedicated people in our parliament, but the tone of parliamentary rigour and conscientiousness is tarnished by the frequent images of MPs sleeping in their seats.

The quality of debate and engagement with issues of the day in many respects still leave much room for improvement.

Responsiveness to crises and calls for help was one of Suzman's hallmarks. No letter, phone call or indirect message to her from anyone ever went without a response. And the response time was also remarkably short.

As a banned person in the remote rural village of Lenyenye in Tzaneen between 1977 and 1983, I only needed to call her office and leave a message and she would get in touch within 24 hours. She didn't know me personally, but made it a point to get the details of my situation, including a personal visit.

She was also effective. For many years after my banning order was lifted, I relied on her interventions to get my passport renewed. I would call her office after waiting for more than six weeks for a response to my application and, sure enough, she would call back within 48 hours to say that I should go and collect the passport at the office.

In contrast, many of us as citizens today have had to wait in vain for responses to requests or queries about matters of public interest from some of our former fellow activists in high places in our public service. They could learn from the example of this great public servant.

Suzman also spoke truth to power without exception. In the apartheid era, she not only challenged the system and its leaders on every front, but also refused to be bullied.

In her autobiography, she refers to her challenge to the security apparatus that was tampering with her mail and tapping her phone because she was regarded as a security risk during the late '70s.

She took on die "Groot Krokodil", as P W Botha, the then prime minister, became known for his viciousness in dealing with opponents.

Integrity was a given for Suzman. The idea that one could use one's public position for private gain was anathema in her book.

He tried to put the blame on her for "sipping with the devil" and therefore putting herself under suspicion for treason.

She came back with characteristic sharpness: "... it is not my friends I should choose more carefully, but my enemies!"

By taking the government on in this way, she forced the issue of invasion of the privacy of citizens onto the parliamentary floor by providing irrefutable evidence from her own case.

This compelled the apartheid government to make overt legislative provision for what they had thought they could do without being held accountable.

What guts!

It's sad that in post-apartheid South Africa, with all its constitutional

protection, few defend their rights as citizens to be treated with dignity by public officials and those who abuse power to silence others.

Many MPs seem to be more concerned about protecting their parties and leaders than standing for our founding constitutional principles.

The conflation of leader, party, government and state is a worrying trait of our political culture.

Integrity in public service was a given for Suzman. The idea that one could use one's public position for private gain was anathema in her book.

She was distraught when the Travelgate scandal broke out. But she was even more disappointed that those in authority in parliament, the executive and party political structures did not seem to act resolutely to tackle the offenders.

To date, only tepid attempts have been made to hold accountable those MPs who made false travel claims at taxpayers' expense.

Suzman was also disappointed in the poor performance of many sectors of our public service and the growing entitlement culture that was fuelling corruption across many sectors.

The words of the minister of finance, Trevor Manuel, as quoted in his biography by Pippa Green, *Choice, Not Fate*, would have pleased Helen: "... ours is no longer a money problem, ours is an efficiency problem."

"Let's turn around the public service, put it at the service of people, put people as the objective of what (we're) doing, and drive that agenda."

"You step out of line, you take money that does not belong to you, we deal with you hard! We build an exemplary public service. That challenge, I think, is the biggest challenge of our time."

Suzman would have expected nothing less from us as citizens of this great constitutional democracy than to meet that challenge.

That is the greatest tribute we can pay her.

*Ramphela is an academic and former anti-apartheid activist and author of Laying Ghosts to Rest*

## SO MANY QUESTIONS



Matric results and Outcomes-Based Education are under the spotlight. **Chris Barron** asked education director-general Duncan Hindle ...

**Are you happy with the results?**  
Look, it was a huge risk we were taking with the introduction of the new curriculum. I think we can say that, to a large extent, the results were satisfactory.

**Some might say it's a national crisis.**  
I don't believe it is at all, and certainly not in terms of the results. It was a tough set of exams; some of the papers in particular were difficult. I think this is an honest reflection of the ability of our schools and students to achieve now and work upwards from here.

**We're talking 200 000 pupils failing and many provinces recording failure rates of almost 50%. You wouldn't call that a crisis?**  
Well, it's certainly nothing specific to this year. The pattern has been fairly similar to earlier years. The good side of this is that more students have graduated than ever before, and some 140 000 have qualified for a supplementary exam. If even 50% of them pass, then, certainly, we're looking at a very different equation.

**Are you concerned that even those who pass are found seriously wanting when they get to university?**  
I think that has been the case and we have to recognise that the old curriculum was not a particularly good training for further education. It's going to be interesting to see how these students now cope with the university environment. Our expectation is that, in many respects, they will be better prepared.

**Doesn't the fact that 80% of pupils in grade 6 can't read raise any concerns about the new curriculum?**  
That is of concern, but academic evaluation results last year showed an improvement in the literacy and numeracy levels of our grade 3 learners. So I don't think there can be any argument that things are not getting better.

**So what is the future of outcomes-based education?**  
Very few of us refer to Outcomes-Based Education. It means different things to different people and is not helpful. What we refer to is the national curriculum statement. And if there are any comments that need to be made in regard to the curriculum, let's be specific. Let's point to the national curriculum statement and indicate where it is flawed, and if so, how? Broad statements around outcomes-based or not outcomes-based are not helpful. If you look at our national curriculum, I think you will see there a high quality.

**Whatever you call it, don't the results suggest that it is not working?**  
No, I don't think so. Outcomes-Based Education was never about everybody passing. I think what we're seeing here is a very honest reflection of the ability of our schools. We're talking about a pass rate of just over 60%. One could probably argue that it's fairly close to the fact that two-thirds of our schools are working well and one-third of our schools are not working well.

**What are you doing about those schools that are not working?**  
If it means changing principals, then we'll do that. We're working with individual schools one by one to ensure that they come up to standard. We've seen dramatic changes in schools in a relatively short space of time. So I think we're getting there.

**But the number of schools with pass rates of less than 60% increased by 20% from 2007. Surely this doesn't suggest that you're getting there?**  
We can't make comparisons with 2007, because this really was a new curriculum et cetera.

**Hasn't it been shown that many teachers don't have the skills or resources to deliver outcomes-based education?**  
Well, certainly, and there's a large job to be done around teacher development. No one is denying that. But if you look, for example, at the results for maths literacy for 2008, the pass rate there was some 70%.

**What about allegations that the standard of the exam was lower than before?**  
We have an independent committee of statisticians and experts who deal with these kinds of issues, and they are quite clear that the standard of the paper was of a reasonable nature.

**How else do you explain such a sudden jump in the number of pupils passing maths at what used to be the higher grade level?**  
That's very easy to explain. A lot of pupils who never had the chance to do maths at the higher grade, because their schools did not offer it, now had that chance and they managed to pass that.

# Media freedom's rocky year shows the need for vigilance

Institution of ombudsman must be strengthened further, write **Dario Milo** and **Pamela Stein**

**I**T'S timely at the start of the new year to take stock of the significant developments in media law in 2008. The ANC had proposed at its Polokwane conference in December 2007 that a statutory media appeals tribunal to regulate the print media be explored.

That issue was hotly debated last year. An alternative to court action should be available, but this alternative already exists in the form of the press ombudsman.

A statutory tribunal would effectively allow a government body to interfere with the content of publications. This would constitute a dramatic invasion of media freedom.

In any event, the press ombudsman system is working. Far from being a yes-man for the media, the ombudsman, Joe Thlooe, handed down many important rulings against the media last year, including the publication of a front-page summary of his ruling in the claim brought by a former Land Bank board member against the Sunday Times.

Of all the criticisms that may be levelled at the ombudsman, being soft on the media

is not one of them. And it's important that the institution be strengthened even further — bolstering non-media participation and possibly levying fines.

If the ombudsman system fails, proponents of a statutory tribunal would be provided with potent ammunition.

There was a plethora of draft legislation last year which contained major restrictions on media freedom.

Most prominently, parliament's ad hoc committee on intelligence legislation debated the Protection of Information Bill, which aimed to regulate the classification of state information.

The bill contained draconian provisions, including permitting classification where the information could harm the "national interest", which was so hopelessly defined that it could be argued to cover almost anything. Worse, there was no provision for a public-interest defence for the media.

It was no surprise that, when it was announced that the bill would not be passed

in 2008, many commentators saw this as an occasion for dancing in the streets.

It's hoped that when the bill, or another version of it, is debated again, the drafters take on board the submissions about media freedom made by various media houses.

The media were not successful in shelving the Films and Publications Amendment Bill, which has been passed by parliament.

One of the problems with the new law is that it requires pre-publication approval for articles that, for instance, contain references to "sexual conduct" as that concept is defined in the act.

In its earlier form, this provision was clearly overboard and unconstitutional.

The legislature has softened the position to now exempt those publications that

subscribe to the press ombudsman's code of conduct. While this is an improvement, it is by no means a magical wand that removes the fundamental constitutional objection to pre-publication censorship, and the law may well face a constitutional challenge.

Then there was the debate about Zapiro's cartoon depicting ANC president Jacob Zuma preparing to "rape" lady justice. Zapiro was unmoved, stating that the cartoon conveyed exactly what he wanted it to — that our justice system was being violated by Zuma and his supporters.

Zuma ended the year by threatening to sue Zapiro and the Sunday Times for R7-million for defamation.

Courts are a form of commentary. Our law has for years recognised a defence known as fair comment: the right of

every person to express their opinion honestly on matters of public interest, provided the underlying facts are true.

Freedom of speech must extend to ideas that shock and offend, which many thought was true of Zapiro's cartoon.

Another area of media law that attracted attention in 2008 was the openness of court proceedings.

"Closed court proceedings," as Judge Zakeria Yacoob once said, "carry within them the seeds for serious potential damage to every pillar on which every constitutional democracy is based."

The rule against secrecy also applies to documents before courts.

The Constitutional Court recognised this principle last year in the landmark application by Independent Newspapers for access to classified court documents in the unlawful-dismissal case by former director-general of the National Intelligence Agency, Billy Masetlha, against then president Thabo Mbeki.

The court confirmed that the default position was that open justice required that courts must be open and documents that formed an integral part of such proceedings must be made available.

This approach should be applied in the context of non-judicial adjudications that raise public interest issues.

An example from last year is the inquiry by Frene Ginwala into the fitness for office of former national director of public prosecutions Vusi Pikoli.

The decision by President Kgalema Motlanthe to release the report was clearly correct, as was Ginwala's approach to the hearing itself, which was for the most part conducted in public.

As with so much else, 2008 was a turbulent year for the media.

We would do well not to rest on our laurels, and to constantly test developments in this area of the law against the demands of freedom of expression in an open and democratic society.

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