



TRIBUTE TO THULANI RUDOLF MASEKO

by Justice Thomas Masuku

The events of the night of 21 January 2023, when one of Swaziland and SADC’s premier human rights lawyers and activist, Thulani Maseko, (TR), was callously murdered in cold blood by miscreants, reverberate to this very day. I am still battling to reconcile myself to the cold and irreversible fact of his painful demise.

TR, was an unassuming, calm, humble, brave, principled, determined and deliberate individual and lawyer. How he was able to achieve so many diverse things and become so many things to so many different people in one short lifetime is remarkable. As I listened to the many speakers during his memorial service, with each narrating his or her experience and connection with TR, I was truly amazed.

To Mrs Maseko, he was a husband, lover, prisoner and leader. A committed father to his two sons. To many, he was a fearless, ethical and brilliant lawyer – bowing to nothing but stainless jurisprudence impelled and infused by justice, fairness, respect for human rights, freedoms and dignity for all. Opulence was not his goal, but service. Yet to others, he was a political leader who thought, spoke and represented many who have a thirst and hunger for the full and effective realisation of human rights in their entirety.

I met TR when I was a part-time lecturer in law at the University of Swaziland in the mid 90s. He was part of a vibrant class, the majority of whom wanted the law to work and make a tangible difference in the lives of ordinary people in our communities. He was admitted as an attorney in 1999, and eventually ventured into running his own practice until his untimely demise.

He distinguished himself in the human rights arena, which did little to surprise me. He was coming fully unto himself,



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fulfilling that long held dream to be a lawyer of and for the ordinary people in need yet without means. He was involved in many high profile cases that affected the lowly in our country.

He argued the Free Primary Education case successfully. He also appeared in a constitutional matter dealing with freedom of association in relation to political parties; the constitutionality of certain provisions of the Seditious and Subversive Activities Act; the legality of the change of name of the country to eSwatini; the registration of an organization for the LGBTQI+ community, to mention but a few. He also found time to write for the *Nation* magazine, a monthly publication circulating in Swaziland.

TR wrote an article in the *Nation* that landed him on a collision course with Ramodibedi CJ. He was charged and convicted for contempt of court for an astounding period of two years, without a fine. He served a custodial sentence only for writing that the judiciary is not above the law; nor are the judges.

During his trial, which was unfair and unjust, the full stature of the man came to light when he made the following remarks, among others, in his riveting unsworn statement in his defence:

“In conclusion, let me make it clear, that I am not naïve. I have read between the lines and have realised that our fate has long been determined. I do not, for one moment, believe that in finding me guilty and imposing a penalty on me for the charge I face, the court should be moved by the belief that penalties deter men from a cause they believe is right. History shows that penalties do not deter men and women when their conscience is aroused. Given that our fate has been decided, I do not wish to waste either your time or mine. Accordingly, I invite His Lordship to impose whatever severest price and penalty this court deems fit.



“Somebody tells me that ‘somehow unearned suffering is redemptive’ and somewhere I read that ‘to be joyful in hope, patient in affliction, faithful in prayer’. The path to freedom goes through prison, but the triumph of justice over evil is inevitable. Nothing this court will do will shake me from my commitment to simple truth and simple justice and the belief in the noble values of democracy, freedom and human dignity. No moral man can patiently adjust to injustice. I do this knowing fully well the consequences of my decision. As has been said, standing up to powerful interests and injustice carries a price.”

It would appear that TR already had some foreboding regarding his extermination so many years earlier. His fight against injustice caused him to pay the ultimate price.

For him, the Constitution of Swaziland, whose crafting he openly criticised, was nonetheless a living document that had to be given life to primarily by lawyers and the courts. It was to be interpreted in a manner that was expansive, purposive and deliberately informed by the propagation of human rights and freedoms. It was not just a paper tiger that is wielded in people’s faces at will and resiled from whimsically when the occasion is deemed suitable.

My last personal interaction with TR was in December 2020 when I went home for the festive season. We set up an appointment that was cut short because of an emergency. He had a sense of urgency about him as if he realised that he did not have all the time in the world to do what needed to be done. In that short meeting, I presented him with a book authored by Smuts JA, of the Supreme Court of Namibia, whose legal life, work and philosophy in parts reflected TR’s still evolving journey.

TR was not just about the practical aspects of the law. He was also an avid academic. He pursued two masters degrees in law, specialising in human rights. This afforded him a cutting edge in his quest to become a well-rounded lawyer, with critical insights into obscure legal and practical questions. He also served as a

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research assistant for the late Langa CJ of South Africa.

TR and I had mutual respect for each other’s lines of operation. We never discussed politics as he knew that was forbidden territory for me, nor did I discuss his involvement in other areas of life outside the law. What I can share, is that he was yearning for a judiciary in our country that is above reproach and one that is an unadulterated slave to the Constitution and the law and to nothing else. A judiciary that is not only said but seen to be truly independent and accountable and which the lowliest could approach with confidence that justice would be done, regardless of who was on the opposite side.

The statements delivered in reaction to his brutal death, by international, continental and regional bodies, law societies, human rights activists, churches and political parties bear a tower of testimony to how blessed we were as humanity to have had him walk, work and dwell among us.

Although what you may have stood for, fell for and probably forfeited your life for, may not have been achieved yet, rest in the knowledge that you played your critical role with distinction.

Rest In Peace and power, Ngcamane. We shall always remember the many different parts of your life that made you the one and only TR. **A**