

EDITOR'S VIEW

GDP shrinks, fuel price hikes, junk status looms

GIVEN the latest economic growth figures, South Africans should be worried, very worried.

Statistics South Africa said this week that our economy shrank by just over half a percent in the third quarter of this year, compared to the second quarter.

It means that this year, our economy has been flat. It fell by 3.1% in the first quarter. It grew by 3.2% in the second quarter. And in the third quarter it fell by 0.6%.

It has been six years since our economy last grew by more than 2% per annum.

And, it has been 11 long years since it grew by more than 5%.

It's a long way off from the 5.4% goal that was set in the National Development Plan (NDP).

That document spoke of maintaining a growth rate of more than 5% for a period of 20 years. It would have translated into about 11 million jobs being created over this time frame, thus reducing unemployment to single digits.

But, as former president Thabo Mbeki correctly pointed out previously, the NDP was more of a vision than a plan.

It also sums up what is wrong with the government: we are fed a vision, but what is lacking is the ability to translate this vision into a reality.

As a result, our own realities are changing for the worse and next year we are likely to experience further pain.

It is also probably the year that South Africa will fall into junk status.

Of the three influential ratings agencies, it is only Moody's Investors Service that thinks South Africa is a country worth investing in. But, after the latest economic growth numbers, they will find it difficult to maintain this position.

Lower economic growth means the taxman would have collected less money this year – more than R50 billion less, according to the mid-term Budget, announced in October.

However, the government still has to pay the bills, which means those people who have jobs will have to pay higher taxes come February. It will either be higher personal taxes, higher VAT or a combination of both.

This week, the petrol price goes up by 22 cents per litre. This increase has got nothing to do with our economics, but with the fact that the price of Brent crude oil has risen.

But our rand did weaken on news that economic growth had fallen, so come January expect petrol prices to rise even further. It is a sign of things to come.

Finding ways to relate to each other more graciously

Landmark ruling a balance in human rights

JUGGERNAUT



KANTHAN PILLAY

'IF LIBERTY means anything at all, it means the right to tell people what they do not want to hear.' – George Orwell said this in his original preface to *Animal Farm* published in 1953.

It's an appropriate choice of words for Judge Mahomed Solomon Navsa to quote at the beginning of a landmark 48-page judgment handed down by the Supreme Court of Appeal in Bloemfontein last week.

But first, let me digress. For me, this story begins in early 1983 when I was a BSc student at Wits University. I was paying my way through tertiary education by working as a freelance journalist, primarily for this newspaper.

Filing my copy from Joburg to Durban meant going to the Star building at 47 Sauer Street. An operator would retype my words into a ticker tape machine. This tape was fed into a telex machine and the words would miraculously appear on a teleprinter at the Daily News building at 85 Field Street.

Going into the Star building was a less than pleasant experience. The place still had segregated canteens for black and white staff.

The editor and the news editor both made it clear that I was reluctantly allowed into their space at the request of a sister paper in Durban. I was steered towards the black section of the newsroom where the reporters who worked on the Star "Africa Edition" were sequestered.

One of those reporters noticed my discomfort. He invited me to share his desk and offered me a cigarette. He introduced me to his colleagues.

Over the next several months, I would camp out once a week at the desk of Jon Qwelane. We butted heads regularly over his deep seated religious beliefs. (He was raised as a Roman Catholic and was convinced of the infallibility of the pope and his pronouncements. I am an atheist and a firm



Jon Qwelane

believer in reproductive rights for women and gay rights.)

Nevertheless, I developed a deep affection for the man. He was what my Jewish friends would refer to as a "mensch"; generous to a fault, always helpful, always sharing his knowledge and experience with youngsters such as myself.

Fast forward to July 20, 2008. Qwelane was a columnist for the Sunday Sun and on this day wrote a piece headlined: "Call me names – but gay is NOT okay".

I'm not going to quote the article here because I find the views JQ expressed there to be quite repugnant. It was a tirade against homosexuality and how he viewed it as a threat to traditional values. He also challenged the Human Rights Commission to take him on because he refused to withdraw or apologise for his views.

The HRC instituted proceedings against Media24 and Qwelane in the equality court, saying the article contravened a section of the Promotion of Equality and Prevention of Unfair Discrimination Act (Peputa).

That section reads: "... no person may publish, propagate, advocate or communicate words based on one or more of the

prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to – (a) be hurtful; (b) be harmful or to incite harm; (c) promote or propagate hatred".

Judge Stanley Moshidi ruled in support of the HRC. Qwelane's statements, he ruled, were "declared to be hurtful; harmful, incite harm and propagate hatred; and amount to hate speech...".

Qwelane was ordered to make an unconditional written apology. He appealed the judgment on the grounds that he believed the section of Peputa used against him to be unconstitutional.

On August 19, 2019, more than 10 years after the original column was published, a full bench of the Supreme Court comprising judges Navsa, Wallis, Dambuzza, Van der Merwe, and Dolamo heard the appeal.

On November 29, the court ruled in favour of Qwelane. Section 10 of Peputa is inconsistent with our country's Constitution and is therefore unconstitutional and invalid.

There has been much criticism of the ruling in the short time following. I don't share that view. To my mind, this ruling is a deeply philosophical argument around how

to balance competing human rights without abrogating either.

Judge Navsa tries to address the question of what can be defined by law as being "hurtful". He quotes various dictionary definitions of "hurtful" and points out:

"The common feature of all these definitions is that they are concerned with a person's subjective emotions and feelings in response to the actions of a third party. This does not equate with causing harm or incitement to harm.

"... Professor Nel considered repeated pronouncements by churches, that homosexuality is a sin, as hurtful. One could say that pronouncements by agnostics and atheists, that the clergy and people of faith believe in fairy tales and could rightly be condemned for being irrational and that they have no place in an evolved society, would be equally hurtful to those targeted.

"... Daily human interaction produces a multitude of instances where hurtful words are uttered and thus, to prohibit words that have that effect, is going too far.

"I accept unreservedly that harm... need not necessarily be physical harm, but can be related to psychological impact. However, the impact has to be more than just hurtful in the dictionary sense.

"I am not unmindful of the threat to life, limb and psyche that members of the LGBTI community face. I will take care in crafting a remedy to ensure that they are not left without recourse."

And this, to my mind, is the essence of good law in seeking to protect fundamental rights while protecting individuals from the adverse effects of others exercising those rights.

And what of my friend, Qwelane, who hurt me deeply with his vitriol but for whom I still hold a deep and abiding affection? The ruling holds the answer to that too.

I quote:

"We were informed by counsel on Mr Qwelane's behalf that he was ailing. He had iconic status and fought hard against the divisions of the past. He might well want to consider that it is worth preserving that legacy by seeking rapprochement, even now. I urge him to do so.

"We have to, in our beloved country, find a way in which to relate to each other more graciously."

Srikanthan is one of the names of Vishnu. Another name for Vishnu is Jagannath, "the unstoppable force", which gives us the modern word juggernaut. Pillay writes about understanding the unstoppable forces which shape our lives in technology, commerce, science and society.

Are fed-up citizens on the verge of a tax revolt?

The Quote

True forgiveness is when you can say: 'Thank you for that experience.'

OPRAH WINFREY

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ROSHELLE RAMFOL

TAX revolts date back to biblical times.

Throughout the ages they have exhibited similar symptoms of a decline in taxpayer morale and confidence in a government's ability to manage public finances for the greater good of its citizens.

Recent public outcries in South Africa signalling dissatisfaction and concerns over the management of public finances suggest that the country could be on the brink of a tax revolution.

While taxpayers have a civic duty to be tax compliant they are not donating taxes in an effort to be altruistic. There is an expectation of a return in some form.

Recent events suggest that South Africans are becoming increasingly restive about paying taxes to a government mired in allegations of corruption. This explains why sentiments of a tax rebellion are growing.

In a recently published paper, I reviewed some of the literature on tax compliance.

My aim was to establish the theoretical point where tax compliance shifts to resistance. I also extended my analysis to South Africa by extrapolating the legal implications of a tax revolt.

The study found that the fine line between tax compliance and resistance lies where the government creates an equitable distribution between collective costs and benefits.

Often the threat of a tax revolt is a measure to renegotiate the terms of a fair exchange and a mechanism to mobilise the association that disintegrated between taxpayers and a government.

◆ Perceptions about fairness

Governments use tax policy to achieve objectives. These include steering economic growth, changing the behaviour of citizens and raising money to finance programmes.

Tax policy, and its implementation, is therefore the closest and most contentious interface between a citizen and a government. People's perceptions about the fairness of a fiscal regime are crucial.

Simply put, tax revolts arise when a government receives tax payments but fails to deliver the perceived reciprocal benefits.

Society is not naturally motivated to pay tax. Voluntary compliance is fostered by



RECENT events suggest that South Africans are becoming increasingly restive about paying taxes to a government mired in allegations of corruption, says the writer. | African News Agency (ANA) Archives

establishing consent, trust and legitimacy in a fiscal regime. This means that a government must ensure that compulsory taxes are acceptable, fair and beneficial to citizens.

One of the main motivations to rebel is when a tax regime is perceived to be unfair and oppressive. A tax revolt is a mechanism for citizens to renegotiate the terms of exchange.

A tax revolution might not merely be based on a rejection of taxes. It might be a mechanism to seek restorative action to improve government performance.

◆ Factors that drive compliance

Tax compliance decisions are determined by an individual's tax morale. The benefits of promoting tax morale hold immense potential for tax revenue generation.

A taxpayer's level of tax morale is a strong motivator to comply with – or resist – taxation. Countries demonstrating higher ratios of tax to gross domestic product have higher tax morale.

A combination of psychological and sociological factors influence tax morale. Public perception studies conducted by the Organisation for Economic Co-operation and Development confirm that a citizen's age, gender, religious beliefs, level of education

and trustworthiness of a government are determinants of tax morale.

Another factor affecting compliance is whether taxpayers believe there's a contractual agreement between them and the government under which social security is exchanged for paying taxes.

A government's credibility, or trustworthiness, plays an important role in this fiscal contract. In South Africa, the contract has been under strain following instances of widespread corruption and wasteful expenditure by various state-owned parastatals and government institutions.

The events have negatively affected both parties: the government's credibility and competency and citizens' tax morale.

Under these circumstances of distrust and malaise, a taxpayer might question the rationale for paying taxes.

After all, why should citizens make tax payments if it means they're simply financing state corruption?

◆ Reasons for revolt

South Africa's economic, political and social context presents many determinants of taxpayer resistance. This includes a high tax burden; loss of confidence, credibility and competency in the government; low taxpayer

morale; and increased frustration because of the government's lack of commitment to arrest the rampant corruption and misappropriation of tax funds.

◆ But is a tax revolt the answer?

As a last resort, revoking one's consent to tax and embarking on a full-scale tax revolt might seem like the only available option to restore the terms of the fiscal contract.

However, historical accounts of tax revolt show that this type of action can expose citizens to the harshest and most repressive measures.

Embarking on a tax revolt is an act of civil disobedience and unlawful.

The penalties are harsh and the mechanisms available to the South African Revenue Service to enforce tax collection are far reaching. They include, for example, seizure and execution of property.

There are other consequences too. When taxpayers renege on their tax obligations it can lead to severe fiscal stress. Ultimately, citizens bear the burden of disruption in government services, economic stagnation and inflationary pressures.

◆ Solutions

An important step is to ensure transparent governance is fostered so that the government can be held accountable for effective spending.

This can be achieved by supporting civil society groups that challenge the suitability of government policies and the reciprocal spending of tax revenue.

A great deal of attention needs to be placed on restoring trust in government institutions.

The fundamental starting position must be to address corruption, restore trust and legitimacy in the government and ensure value is received for tax money. Only then can government start to rebuild its credibility and with it taxpayer morale, and restore a taxpayer's consent to tax.

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