

6th Annual Paddy Kearney Memorial Lecture

31 August 2024 at the 1860 Heritage Centre, Durban

Co-hosted by Active Citizens Movement, Denis Hurley Centre, Durban University of Technology and Gandhi Development Trust

Lecture by Judge Chris Nicholson

It is with great pleasure and a sense of honour that I accepted the invitation to present this year's Paddy Kearney Memorial Lecture. I am grateful to Ela Ramgobin and the 1860 Heritage Centre, DUT and the Denis Hurley Centre for setting up this commemoration.

My topic is *The relevance of Paddy Kearney in the present times in SA*. I have decided to give my talk the subtitle 'You cannot kill the truth.'

It is a privilege to share this podium with the author of that wonderful biography of Paddy, Raymond Perrier, who will respond to what I have to say. I assume Raymond is part of the greater Perrier family which supplies the thirst of the world with Perrier water. The spring in Southern France from which Perrier is drawn was originally known as *Les Bouillens* (The Bubbles). It had been used as a spa since the Roman Empire, and during 218 BC, Hannibal and his army, having passed through Spain en route to his intended conquest of Rome, decided to rest for a while at Les Bouillens from which the men took water for refreshment.

This product is naturally sparkling and I am sure his response will be the same. For those of you who do not know Raymond we recall how in 2015, he was appointed by Paddy Kearney as the first Director of the Denis Hurley Centre – an interfaith community centre in the heart of Durban, helping the poor and marginalised. This landmark building has established a reputation as a place of care, education and community. His book is based on his PhD thesis, which was awarded by UKZN in 2023.

Paddy wrote a wonderful book about Archbishop Hurley, so the connections are very clear to us all. In his book Raymond sums up Paddy's life and his vision as follows :

Clearly, his most famous area of ministry was in combating Apartheid, a word which is simply the Afrikaans for 'separateness'. The framers of Apartheid argued not only that people *could* be separated (based on physical characteristics sometimes so arbitrary that a 'pencil test' was needed) but that they *should* be separated for the good of all. Separateness was not just possible but to be desired and encouraged.

This could not have been further from Paddy's worldview. He believed passionately that people of different colours should not be separated and that is why it was important for him to combat Apartheid. Initiatives such as the 'exposure visits' were not just about sharing information (after all there were other ways of doing that) but sharing space: people of different colours living together for a few days.

It is then logical that, after the end of Apartheid, he would use the same energy to show that people of different economic classes should not be separated and so, in his later years, dedicate himself to the fight against poverty. The whites-only beaches of the 1970s were an affront to Paddy but so were the middle-class-only gated communities of the 2010s.

I cannot remember when I first met Paddy it must have been in the mid-seventies. When the Ecumenical Centre was set up, the Legal Resources Centre with me as director was ensconced as a

tenant and I then got to know Paddy much more. When he was arrested and detained, I brought the famous case to have him released in Archbishop Hurley's name. As you may know, it all depended on the police powers to arrest and detain someone if they had reason to believe he was engaging in subversive activities.

The police would not divulge what it was that Paddy was doing to constitute the subversive activities. In a normal case the police can only arrest a person if they believe he has committed a criminal offence. We maintained that the arrest and detention of Paddy was unlawful because the police would not furnish the reasons for his arrest. His Grace was a big man in every sense and I sometimes wonder at my cheek in those days. It was then that I coined the rhyme that when you are in the hurly-burly there is no one like the Burly Hurley.

Hurley was a man of great integrity and humility and he had a great sense of humour. We often discussed rugby and he clearly enjoyed watching the games. I will refer to some stories he told me in lighter vein. We were once chatting after the great court case when he told me about the Beatitudes. Amongst other matters we talked about one of the verses. 'Blessed are the peace-makers'... how relevant is that in a world beset by the horrors of war, what with the belligerent Putin and the murderous Netanyahu.

We moved on to the next one. 'Blessed are the meek, for they shall inherit the earth.' I will be dealing with the ravages the corporates have carried out in Africa and South Africa in a moment, but we laughed at that prospect of the meek inheriting the earth. 'Chris, how long do you think they will be able to keep it?' Hurley asked me. We then discussed what would happen after that took place.

I have recently published a book on *Who really killed Chris Hani?* in which I explore the plunder that has taken place over the years. Hani had an ambition to redistribute the wealth of South Africa and for that reason those who opposed him clearly had a motive to kill him. I explore others who were also killed in that self-same endeavour of redistributing wealth after independence: Patrice Lumumba, Dag Hammarskjöld, Olof Palme, Bernt Carlsson, and Namibia's Anton Lubowski.

Poverty in Africa has been omnipresent during the colonial and post-colonial eras. In 2013, the World Bank reported that the number of people living in extreme poverty in Africa had risen in the previous three decades from 205 million to 414 million. The figures are disturbing. In his penetrating study of corruption in Africa *The Looting Machine*, award-winning *Financial Times* reporter Tom Burgis argued that Africa was the world's 'poorest' continent and yet holds incredible resources. With only 2% of global GDP, it holds 15% of the planet's oil, 40% of its gold and 80% of its platinum. Its curse is because it holds a third of the mineral deposits found on earth.

Burgis conducted a six-year study of corruption in Africa and was on a mission 'to give voice to the millions of ordinary Africans who suffer the consequences of living under this curse'. He investigated what had brought poverty on the 900 million people south of the Sahara. Writing in 2007, he found that '69% of people in extreme poverty live in countries where oil, gas and minerals play a dominant role in the economy ...'

His study revealed that in 2010 fuel and mineral exports from Africa were worth \$333 billion, more than seven times the value of aid that went in the opposite direction. He added the obvious rider that this is before you factor in the vast sums spirited out of the continent through corruption and tax dodges.

Burgis described the process by which the wealthy acquired their spoils: 'First the colonialists and then the apartheid regime carried off the cream of South Africa's natural wealth. South Africa's mineral resources are still by far the world's most valuable, estimated at \$2,494 billion, way ahead of

second-place Russia and enough money to buy Apple, Exxon Mobil, and the rest of the nine biggest listed companies in the world.' Francis Wilson said that South Africa was the mineral treasure house of the world with so many important minerals, gold diamonds and other strategic resources.

After the 1994 elections, the goal was to change all that had bedevilled the past. It was made clear in the new South African Constitution. 'We the people of South Africa, recognise the injustices of the past ... believe that South Africa belongs to all who live in it ... adopt this Constitution so as to ... improve the quality of life of all citizens and free the potential of each person ...'

Thirty years later, how has this wealth been divided? Not very equally, according to Lesetja Kganyago, South African Reserve Bank Governor, in a lecture at the Nelson Mandela University Gqeberha on 1 August 2018 entitled *Inequality and monetary policy in South Africa*. He said, 'The Gini coefficient of South Africa is around 0.7, which makes it one of the most unequal countries in the world, and certainly the most unequal large country.' In South Africa, the Governor said, 'most assets are owned by people at the top of the income ladder... 10% of the population owns more than 90% of all wealth while 80% have no wealth to speak of; a propertied middle class does not exist.'

This inequality is replicated elsewhere as emphasised by Göran Therborn who said in his book *The Killing Fields of Inequality*, 'National economic inequality in the world exhibits some clear historical geo-economic patterns. Worst-off are the former White racist settler-cum-mining-and/or-plantation countries, South Africa and Namibia, Brazil and Bolivia, and most of Latin America.'

But as Fanon pointed out so tellingly, the people "realise at last that change does not mean reform, that change does not mean improvement". When the Governor mentioned 'the 80% with no wealth to speak of' he might have added how many suffer from hunger. A health study revealed in 2013 that 26% of the population was actually facing hunger and a further 28% were at risk. After the devastating consequences of the Covid 19 virus, those figures would no doubt have deteriorated drastically. Recently, it seems up to 50% of people in this country have food insecurity.

Hunger is a personal and a communal malaise that crushes the potential of individuals and societies. It is caused by, and perpetuates, poverty that is more than merely material. It is a manifestation of, and helps to perpetuate, damaging social inequality; poor households have to spend nearly 50% of their income on food, but they are forced to buy low-quality produce. As a key informant put it, they have 'good access to bad food and bad access to good food'.

In *Heart of Darkness*, author Joseph Conrad brilliantly expressed the effects of hunger 'No fear can stand up to hunger, no patience can wear it out, disgust simply does not exist where hunger is; and as to superstition, beliefs, and what you may call principles, they are less than chaff in a breeze.'

Would it not be wonderful if President Ramaphosa called in his Minister of Finance Enoch Godongwana and said: "When you draw up the budget, top of the list must be enough money to feed everybody in this country, not one meal but three!!!"

How different this is to the 'middle-class gated communities' that Paddy Kearney spoke about. In lighter vein I heard one such occupant of these gated communities talking about a portly friend. 'what is her favourite food asked one? I am not sure but I think it is seconds!'

Apart from hunger, what are the other effects of this huge inequality? Therborn declared,

Inequality is a violation of human dignity; it is a denial of the possibility for everybody's human capabilities to develop. It takes many forms, and it has many effects; premature

death, ill-health, humiliation, subjection, discrimination, exclusion from knowledge or from mainstream social life, poverty, powerlessness, stress, insecurity, anxiety, lack of self-confidence and of pride in oneself, and exclusion from opportunities and life-chances.

There is one more devastating consequence.

Inequality, then, is not about the size of our wallets. It is a socio-cultural order, which reduces our capabilities to function as human beings, our health, our self-respect, our sense of self, as well as our resources to act and participate in the world.

We know that more than 20 000 people died violently in the decade after 1985 as apartheid forces fought to stop majority rule and that millions died from AIDS before treatment was made available. How do we calculate how many died from the factors set out by Therborn? While it is a difficult sum to assess it might well run into the hundreds of thousands or even millions.

The right to food is enshrined in Section 27 of South Africa's Constitution. While some gains have been made since 1994 when South Africa gained democracy, half the population still live precariously, with hunger on their doorsteps.

I am sure Paddy would have done much to highlight this grave problem. The feeding schemes in Durban of the Hurley Centre are certainly testament to his wonderful efforts in that regard.

I am reminded of a story Archbishop Hurley told me about a young priest who was about to give his first sermon. 'So what are you preaching about, Father Jones?' Father Jones said he thought he would preach about Jesus feeding the five thousand. Those familiar with the story must bear with me but it relates to Jesus preaching and then noticing it was lunch time and he had the problem about feeding five thousand people. He called for contributions and a boy came up with three small loaves of bread and two fishes. This was distributed and the miracle was how it multiplied sufficiently to feed everyone with much left over.

Father Jones preached the sermon but got his figures badly wrong. He told the congregation Jesus called for contributions and a boy came up with 300 loaves and 200 fishes? After the sermon the bishop came up to the priest and congratulated him on his sermon but pointed out that he had his figures badly wrong. The priest what he should do and the bishop said he should preach again the next week and correct the mistake. The priest did so and said to the congregation that the boy came with three small loaves and two fishes. So asked the new priest of the congregation 'So dear people how did Jesus feed the five thousand?' one member stood and said 'With the leftovers from last week!' So that was the wit of Archbishop Hurley.

Sadly in South Africa for 50% there is insufficient food let alone leftovers. We have to juxtapose this abject poverty with the obscene concentration of wealth in the world and in South Africa. According to Oxfam, the 26 richest people on earth in 2018, imagine you could fit them all into a bus, had the same net worth as the poorest half of the world's population, some 3.8 billion people. Oxfam's report also claimed that 2 200 billionaires worldwide saw their wealth grow by 12 percent even as the poorest half saw its wealth fall by 11%. Recent figures show that the situation has worsened.

In South Africa, despite having a population of over sixty million now, two white families, the Oppenheimers and Ruperts, owned half the wealth. Professor Sampie Terreblanche traced the roots of the poverty of black people and the inequality in the land to events that took place especially after the discovery of gold in 1886. He spoke of 'the politico-economic system in place in South Africa from

1795 to 1994 [which was] a British-orientated system of colonial and racial capitalism that mercilessly exploited the African population’.

South Africa has agricultural and industrial strength but originally depended on its resources, especially its diamonds and gold. These great benefits were never to be shared with the population and have led to great poverty and suffering. Over the years the majority of South Africans have been consigned to the role of menial ill-paid labourers.

Thomas Piketty in his book *Capital in the Twenty First Century* explained how Britain benefitted from its colonial empire, including the rich pickings from South Africa.

At the time of independence in 1994, Britain and America stood to lose huge profits and dividends should the redistribution mandates of the Freedom Charter be implemented. Sadly, the siphoning off of South African wealth abroad did not stop in 1994. The new ANC government allowed at least seven South African conglomerates to list on overseas stock exchanges with the promise that that would increase foreign investments in the country. This has not happened and annual dividends leaving the country that averaged over R2,6 billion from 1994 to 1999 shot up to R34 billion for 2001 contributing to the sharp devaluation of the rand. Terreblanche said, ‘There is reason to fear that dividend outflows will remain the Achilles heel of the balance of payments.

The predominance of multi-nationals in the global economy has resulted in large-scale tax evasion worldwide. In February 2020, the International Monetary Fund (IMF) revealed that every year worldwide an estimated US \$600 billion worth of tax fails to reach state coffers but ends up in secret jurisdictions. The South African Revenue Service (SARS) estimated that in 2005 South African taxpayers held more than R500bn in overseas accounts to avoid taxation. South African economists have estimated that from 1980-2000, 37% of the value of all capital formation in South Africa was moved offshore, depriving the South African economy of an astonishing \$238bn since 1980.

In more recent times, the position has not improved and *Business Day* of 20 December 2018 stated that conservatively, the South African fiscus lost at least R7 billion a year because of large multi-nationals shifting revenue to lower tax jurisdictions. The top 10% of foreign-owned firms account for 98% of the total estimated tax loss.

The inequality permeates our society. If you are not too depressed already don’t forget that the Minister of Health Aaron Motsoledi said last week, ‘We live in a country of gross inequality. R 860 billion is spent on health in South Africa and 51% is spent on just 14 % of South Africans.

We could dream of a saviour who could increase food for the hungry as Jesus did and the Denis Hurley feeding scheme carries on so manfully. We have to support these efforts with all might and main. But one should not omit to point out failings in the church and its leaders.

I remember after winning the Kearney case we had a celebration and there were boxes of wine, a nice sauvignon blanc and an awful sweet stein wine. When the saugvinon blanc was finished the cheeky side of me reared its head and I turned to Archbishop Hurley and said ‘under the powers vested in you, could you turn this sickly sweet stein into a more palatable sauvignon blanc? He laughed merrily and conceded that his powers did not go so far.

It would be cowardly of me not to say that I still believe that the church and world at large has much to do with regard to women’s right and those of gays. Women are the largest and most oppressed group in the world and gays suffer huge oppression especially in our own continent. We must applaud that our laws permitted Raymond Perrier in 2023 to be legally married to Dr Ockert Fourie,

with subsequent blessings but only from the Methodist, Anglican and NGK churches. Where were the Catholics?

So what would Paddy Kearney have done had he lived longer? I am sure he would have let no occasion go by without drawing attention to these injustices. Not to do so can lead to a continuance or repetition of the evil I have mentioned. Let us bear in mind the words of Charles Péguy, a poet and essayist, whose life straddled the late nineteenth and early twentieth centuries. 'He who does not bellow the truth, when he knows the truth, makes himself the accomplice of liars and forgers.'

In conclusion, may I say how much I mourn the passing of Paddy Kearney. He was a true inspiration to all of us and deserves all the praise Raymond has given him in his wonderful book. Shakespeare said it so well of Brutus in his play Julius Caesar.

'He was gentle and the elements so mixed in him, that nature might stand up to the world and say this was a man'.

The German philosopher Friedrich Nietzsche must have the final word. We salute our dear friend Paddy Kearney and hope that 'In your dying your spirit and your virtue shall blaze on like the after-glow of a sunset...'

Thank you.