



MINISTRY OF FINANCE

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Address to Graduates in the Faculty of Commerce Rhodes University, Grahamstown

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Minister of Finance

Professor Gerwel, Dr Woods, Deans and Members of Faculty of Rhodes University, Parents, Friends, Graduating Students...

Many of the deepest and most profound challenges in the life of a Finance Minister arise from the intertangement of law and economics. Fundamentally, the annual budget is the Executive's statement of how it plans to give practical meaning – social and economic content –to the duties and obligations imposed on it by Parliament, and embodied in law.

I imagine that in the lives and careers of today's graduates, the interface between commerce and the law will also figure prominently at times, although I hope not too often. If you go into business, it is the law that provides a framework for the institutional form of your enterprise, provides security of ownership of your property and certainty to the contracts and transactions that

make up your business activities. If you go into public service, the law will provide the intrinsic motive, organisational structure and practical means through which you will act, as a teacher, an administrator, an advisor, even as a politician.

If you marry, then that happy circumstance will be governed by legal and economic necessities that you had best study carefully in advance. And if you have the good fortune to find yourself in receipt of an income, regular or irregular, you will find there is an inconvenient interference of the law in your financial affairs that the South African Revenue Service administers with ever-increasing competence and professionalism.

Both the law, and the economics of everyday life, are extraordinarily complex, sometimes surprising, sometimes frustrating, always exacting. I know that the very best efforts of your teachers and the diligence with which you have applied yourselves, body, mind and spirit, to the acquisition of knowledge during your time at University, are just the beginning of the great learning adventure in these subjects that accompanies life and living.

Some of you, or your long-suffering parents, may already have experienced misadventure of a legal or economic kind. I hope it is possible to take from the experience what is useful and helpful, with the humility to adopt a more moderate approach to celebrating life, going forward.

This is not, incidentally a problem only of the modern age. In 1954 a Senate Committee enquired into “the orientation of first year students”. It was reported that “There is great indifference to academic work amongst the rank and file of students... If you study regularly you are thought rather odd.” And so we can celebrate today the outstanding achievements of those who perhaps chose to be a little odd, while we also congratulate those who have succeeded in the academic race despite the alternative distractions of student life. More important perhaps, are the larger lessons of social and intellectual curiosity, comradeship and community, that are the hallmark of this wonderful University and the City of Grahamstown.

I would like to leave a few thoughts with you today on the choices we all face, in so many different ways in private and public life, that depend not so much

on the law or economic calculus as on our values and moral beliefs. It is surely true to say that for all the certainty and refinement of options that the law provides, and for all the analytical rigour about costs and benefits that economic rationality offers, it is the way we think about what is right and what is good that is far the most important determinant of the actual choices and decisions and judgements that we make.

I have in mind, for example, the challenge of progressive realisation of social and economic rights – a concept which occupies a special place in the South African Constitution and underpins large parts of our public finances. The law provides that the state contributes to housing for the poor, basic residential and municipal services, access to clinics and schools. But how we allocate resources between these and other priorities, how we manage projects, how we monitor service delivery, how we actually go about the daily tasks of public administration, is intrinsically about values.

I have in mind also the intricate interplay between statutory protection of individual and group rights and the negotiated or competitive evolution of social and economic institutions. We have recently heard the courts rule on the obligation of the city of Johannesburg to provide alternative accommodation to people evicted from illegally occupied or hazardous buildings. We have also recently seen the tragic consequences of a failure to maintain basic fire protection standards in crowded residential structures. How do we make sense of the court's judgement, in the context of very real risks associated with dangerous living conditions? One possibility is that officials, faced with the judge's rejection of the city's efforts and the impossibility of fully providing alternative accommodation when the waiting lists are already unmanageably long, will retreat further from the inner-city housing problem and divert resources to other purposes. Or perhaps a way will be found to match the building renewal programme with workable residential relief services. The important point I want to make is that it is not the court judgement that solves the problem. Whether a solution is found or not, depends on the imagination, resources, shared expertise and – above all – the vision and values of the officials and others involved in the housing process. The courts can contribute very little to this, and it is not difficult to

describe circumstances or find historical examples of progressive court rulings that have been counterproductive, in practice, because the institutional capacity required to give effect to the law has been absent. And the institutional capacity that is most critical, is rather abstract, rooted in shared moral values, and can't be hired from a labour broker.

These are weighty themes, proper subjects of dense scholarship and lengthy discourses. Although the underlying philosophy may be rather complex, the world throws up puzzles of this kind all the time, and we have to be prepared.

Headed by our Constitution, but set out also in an extraordinary range of legislative and policy reforms over the past decade or so, and embedded in new institutions with specific mandates to address social and human rights, protection and empowerment of particular groups or identified economic needs and social development challenges – we have constructed an impressive array of progressive state programmes backed by the law, fiscal resources and carefully designed organisational arrangements. Yet, I think we all share an unease, a sense that what we have achieved is not enough, an impatience that poverty and unemployment persist, a desire to move ahead more rapidly.

What holds us back?

There are many ways of answering this – and of course an important part of the answer is to understand that we can aspire to greater social progress, but we can't be entirely confident about how.

Isn't that one of the glorious paradoxes of being human? There is no limit to what we can achieve, but there is a bit of mystery in everything we undertake. We can make 438 runs in 50 overs, but how we get there is way beyond anybody's understanding.

There is something else about the sports-field analogy that is helpful to understand. The fitness training, the team exercises, the skills programmes, may well pay dividends, may yield calculable benefits, but there are no guarantees about the outcome of the next match or whether we will win or lose.

We do know that a team with a common purpose, shared values, a collective will to work together, is more likely to succeed than a divided house, a broken partnership.

Economic development, building a business, developing a career, raising a family – these are human endeavours of infinite complexity about which our knowledge is incomplete. Success may be quick, it may be slow. What we do now, may deliver rapid returns, or may emerge much later. Education is a social investment that pays not just interest, not just compound interest, but a cumulative compound return over many generations. But in the national accounts it is a collective consumption item. The hours you have spent at your books may bring rapid business opportunities, may mature gradually over your career, may even yield their richest reward in the way you spend retirement years with your grandchildren.

We find ourselves somewhere between the certainty and relentlessness of the law, and the risk-reward trade-off of the business entrepreneur. Social progress is not governed by immutable laws, but nor is it a lottery. The real lesson here is about learning – learning from our own past, learning from other people's experience, learning from the evidence around us. Perhaps the astonishing thing is that it can take so long for the evidence to be exposed and to be understood.

Ideology, familiar practice, unexamined beliefs all play a part in holding back progress. We have known for a long time that far too many policies in our contractual savings industry are surrendered, at excessive cost to financially vulnerable consumers. We have known for a long time that the administration and transaction costs in our unusually well-developed financial service industry are comparatively high. But somehow the disease has been left unattended, a kind of social complacency has persisted for decades. But what is familiar, and legal, and commercially successful, may nonetheless be a social and economic outrage.

We have to be willing to examine the evidence, and turn it around and dig in dark corners, and overturn long-established reputations if necessary. The simple lesson from this sorry saga is that what is familiar, and well-

established, and respectable, may nonetheless be unfair. Be alert, and have the courage to question what may be familiar, but is nonetheless unsound.

There is of course nothing new in the discovery that many tens of thousands of otherwise fine people have been lulled into complacency because unseemly practices have become familiar and established. Unfair commercial practices in part reflect inadequate regulatory arrangements. We can proceed to put in place remedies, but we should be cautious about how we apportion blame and there are distinct limits to the scope for extending corrective measures back in time.

Modern-day business consultants are much taken with the language of risk management, and in the usual toolbox nomenclature there is an unedifying category called “regulatory risk”. Frantic actuarial minds have perhaps been exercised by alarming regulatory risk matrix calculations in some parts of our financial services sector over the last year or so, but there is clearly a need for a level of discourse beyond this clutter of opportunistic classifying and computing. Where the pursuit of commercial gain is elaborated in business practices that heighten the “risk” of regulatory intervention to protect the ordinary interests of customers and consumers, then something fundamental is at fault. One view might be that short-term gains have crowded out more prudent long-term perspectives. Another is that there is a failure of moral leadership in our business sector.

The character of business leadership and its articulation in codified standards of corporate governance is of course an issue of global concern these days. We have seen several free-wheeling governance failures of major proportions, both internationally and in our own country, descending into theft and fraud of mind-numbing dimensions. The scale of this kind of plunder may be unquantified, but its character is unambiguous.

Much more insidious is the kind of corporate fraud that works within, or nearly within – sometimes carefully exploiting – formal rules and procedures of governance. There may be failures of oversight and fiduciary negligence on the part of directors that create opportunities for unscrupulous managers; in complex financial structures and overloaded board agendas there is seldom

enough time to cover every possible loophole adequately. But the complexity and the information overload is frequently part of the problem. There is a very simple lesson from many of the fraud and business failure cases we have seen over the past decade or two, which is that over-elaborate information systems – frequently designed to manage all manner of risks and contingencies – have the unintended effect of weakening the integrity of corporate decision-making. Keep things simple, make sure you understand. We would have far less fraud and far better governance systems if that basic idea were more often applied.

Most instances of corporate fraud, unsound or unfair business practices, or corrupt acquisition of wealth, can be simplified to fairly straightforward moral issues. Elaborate business structures, even forms of compliance with modern risk management and corporate governance principles, can have the effect of masking or distorting the underlying moral judgements. All too easily, intelligent and well-intentioned people, allow themselves to slip into unacceptable behaviour because it is dressed up in a respectable cover. So my cautionary concluding word to today's graduates is: take responsibility, moral responsibility, not just for what you do, but most importantly for how you respond to the opportunities that come your way. Don't be misled by appearances, be clear that the substance of your conduct is above reproach.

Let me return, Chancellor, Vice-Chancellor, staff and students, parents and friends, to the Constitution that is the well-spring of our law and the values underpinning our public life. Our Constitution commits us to

- *Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;*
- *Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is protected by law;*
- *Improve the quality of life of all citizens and free the potential of each person; and*
- *Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.*

Part of the burden of these obligations, part of the joy of the freedoms we have won, is the responsibility of moral judgement, the duties of fairness and honesty, in public and private affairs.