

Struggle Music: South African Politics in Song

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1. INTRODUCTION

From ‘The Marseillaise’ to ‘We shall overcome’, there has probably never been a revolution that did not use songs to give voice to its aspirations or rally the morale of its adherents.¹

This power of music in politics was recognised by Plato in *The Republic* when he warned that any musical innovation that endangers the State must be prohibited because ‘when modes of music change, the fundamental laws of the State always change with them.’² It is probably all the more true on the African continent, where music is ‘intricately interwoven with development issues ... a dynamic and highly charged force that affects and embraces intellectual property rights, democracy, economic growth, censorship, media, tradition, globalisation, and education.’³

In South Africa, music also played a central role in the struggle for liberation from white domination.⁴ This struggle not only liberated, it also culminated in a new political and legal order based on a supreme Constitution and Bill of Rights. However, the new order did not automatically eradicate the painful history of South Africa and can best be described as *transformative* in nature—it is the normative and legal framework that must guide South African society along the way of reconciliation, eradication of poverty, reali-

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1 AO Scott, ‘Film Review: The Sounds and Rhythms that Helped Bring Down Apartheid. *Amandla! A Revolution in Four Part Harmony*’ *New York Times*, 19 February 2003, www.nytimes.com/movie/review?res=9D06E2D61F3AF93AA25751C0A9659C8B63 (accessed October 2014).

2 Ingrid Bianca Byerly, ‘Mirror, Mediator and Prophet: The Music Indaba of Late-Apartheid South Africa’ (1998) 42(1) *Ethnomusicology* 1.

3 Stig-Magnus Thorsén (ed), *Sounds of Change: Social and Political Features of Music in Africa* (Sida Studies, 2004) 1; Anne-Marie Gray, ‘Liberation Songs Sung by Black South Africans during the 20th Century’ (1999) 33 *International Journal of Music Education* 30.

4 Scott (n 1); Anne Schumann, ‘The Beat that Beat Apartheid: The Role of Music in the Resistance against Apartheid in South Africa’ (2008) 14(8) *Stichproben: Wiener Zeitschrift für kritische Afrikastudien* 17, 18.

sation of socio-economic rights, and the development and fostering of a society based on human dignity, freedom and equality. These preliminary observations will inform the discussion below on the role of struggle music in contemporary South Africa, the tension surrounding some of the music given the historical significance of the content thereof, and its present-day legal ramifications.

Steve Biko, a black South African activist who died in detention in 1977, described African music and rhythm as a truly African way of communication. Songs and rhythm are used to 'talk about' shared experiences and from this common experience of oppression grows a culture of defiance, self-assertion and group pride and solidarity. It not only restores Africans' faith in themselves but also offers hope in the direction taken.⁵ And while the voices of South Africa's past will ensure that we never forget one of the most inhumane schemes of discrimination based on the colour of a person's skin, and the voices of our present continue to remind us how far we have come, we actually know very little about the *sound* of our resistance and liberation. Shirle Gilbert explains:

While a significant body of scholarship exists on the broader subject of black South African music, there has as yet been little investigation of how music was used by political movements during the struggle, either within the country or in exile. In addition, little detailed research has been conducted on freedom songs, the ubiquitous but largely informal and un-professionalised genre that was probably the dominant musical medium of popular political expression.⁶

This article will consider how struggle music was used in South Africa during the height of the Apartheid regime and the role that it still plays in contemporary (democratic) South Africa today. First, the term 'struggle songs' will be defined and the reasons for this genre's persuasive effectiveness in the political sphere will be considered. Next, the importance of struggle songs in the practice of protest and dissent against the South African white minority government during the Apartheid years will be considered. These struggle songs that were so typical of the mobilisation of music during the Apartheid years will furthermore be distinguished from other politically motivated music of that time.

Finally, the role of struggle songs in South Africa's political present will be considered. It will be shown that while struggle songs played a pivotal role in motivating and comforting the freedom fighters of the Apartheid years and in intimidating and persuading the oppressive Apartheid government, struggle music in the current political climate is used as a tool to re-assert identity and to defend a social and political space reminiscent

⁵ Steve Biko, *I Write What I Like* (Penguin, 1978) 60; Miriam Makeba, *Sangoma*, Warner Records WBC 1639 (1988)—record sleeve of compact disc.

⁶ Shirli Gilbert, 'Singing against Apartheid' in Grant Olwage (ed), *Composing Apartheid: Music for and against Apartheid* (Witwatersrand University Press, 2008) 157; Sisanda Mcimeli Nkoala, 'Songs that Shaped the Struggle: A Rhetorical Analysis of South African Struggle Songs' (2013) 4(1) *African Yearbook of Rhetoric* 51.

of the struggle years.⁷ It is evident from the court cases surrounding one of these songs and the use of the historical music in the present that there are still deep-seated divisions in South African society. However, it will be shown that diversity and different cultural experiences and expressions are not inimical to the transformative constitutional ethos. Indeed, it will be argued that the South African transformative constitutional dispensation was never meant to be a strong-arm regime aimed at imposing integration ‘by concocting a melting pot’. Rather, the legal and political framework brought about by the constitutional revolution (which was the political result of the struggle in the first place) ‘can do no more than to aid the facilitation of a process of consolidation as precondition to nation-building, and this process will fail if the reality of deep-seated, cultural differences among various sections of the population are denied or simply thought away.’⁸ It is evident from this contribution that struggle music formed and still forms an integral part of the cultural goods of the majority of (but clearly not all) South Africans.

The guiding notion of transformative politics and transformative constitutionalism can, for the purposes of this contribution, be described as follows:

[Transformative constitutionalism is] a long-term project of constitutional enactment, interpretation, and enforcement committed (not in isolation, of course, but in a historical context of conducive political developments) to transforming a country’s political and social institutions and power relationships in a democratic, participatory, and egalitarian direction. Transformative constitutionalism connotes an enterprise of inducing large scale social change through non-violent political processes grounded in law.⁹

While this contribution is not concerned with institutional transformation, it is clear that the project of transformative constitutionalism also (and perhaps most importantly) involves *social change*—arguably the most difficult form of change. It involves cultural change and the common understanding that difficult and conflicting histories must now be reconciled and accommodated in a democratic South Africa governed by a constitutional ethos which rests on the core principles of human dignity, equality and freedom.¹⁰

⁷ Nkoala (n 6) 51.

⁸ Lourens du Plessis, ‘Legal and Constitutional Means Designed to Facilitate the Integration of Diverse Cultures in South Africa: A Provisional Assessment’ (2002) 3 *Stellenbosch Law Review* 367, 385.

⁹ Karl Klare, ‘Legal Culture and Transformative Constitutionalism’ (1998) 14 *South African Journal of Human Rights* 146, 150.

¹⁰ See also observations by the former Chief Justice of South Africa, Pius Langa, ‘Transformative Constitutionalism’ (2006) 17 *Stellenbosch Law Review* 351.

2. STRUGGLE MUSIC: WHAT IS IT AND WHY IS IT SO EFFECTIVE?

Struggle songs/music, also referred to as revolutionary songs/music, freedom songs, liberation songs/music or protest songs/music, first became popular in the context of the anti-war movement in the USA in the 1960s.¹¹ Pring-Mill, writing about struggle songs in Latin America, describes them as ‘songs of socio-political commitment’ and suggests that not all struggle songs are necessarily ‘anti’ something. In addition to the ‘combative’ role of struggle music in the political sphere, it also has a ‘constructive’ role and purpose and some struggle songs therefore offer hope or promote something positive to replace the oppression that the singers are experiencing at that time.¹²

The two primary characteristics of struggle songs are resistance and persuasiveness.¹³ Nkoala ascribes the persuasiveness of struggle music to its being functional, inspirational, educational, instructional, ideological and political.¹⁴ The genre of struggle music therefore includes songs that are specifically mobilised to play a deliberate and focused role in a political struggle.¹⁵ Gilbert describes this distinctive value of struggle songs as ‘propaganda-focused cultural activity’.¹⁶

With regard to the question why struggle songs are so effective, Nkoala looks to Aristotle’s *Rhetoric* and submits that struggle songs possess all three modes of persuasion: ‘Of the modes of persuasion furnished by the spoken word, there are three kinds. The first kind depends on the personal character of the speaker; the second on putting the audience into a certain frame of mind; [and] the third on the proof, or apparent proof, provided by the words of the speech itself.’¹⁷

For example, the call-and-response style of singing where an orator takes the lead was often used at large gatherings and marches during the Apartheid years.¹⁸ One well-known example is the *amandla-awethu*-call, where the leader or orator would call out *Amandla* (power) and the group would respond *Awethu* (ours). This was often utilised in direct marches against Apartheid officials or police and had as its object to instil fear or to intimidate. This call remains one of the most recognised *sounds* of Apartheid and still conjures up images of ‘*die swart gevaar*’¹⁹ during the Apartheid era; singing with fists

11 Robert Pring-Mill, ‘The Roles of Revolutionary Song: A Nicaraguan Assessment’ (1987) 6(2) *Popular Music* 179; Nkoala (n 6) 52; Janell Hobson, ‘Everybody’s Protest Song: Music as Social Protest in the Performances of Marian Anderson and Billie Holiday’ (2008) 33(2) *Signs* 443.

12 Pring-Mill (n 11) 179; Nkoala (n 6) 52.

13 HC Groenewald, ‘Songs about Zuma: Revelations of Divisions after Democracy’ (2010) 31(1) *Literator: Journal of Literary Criticism, Comparative Linguistics and Literary Studies* 123, 126.

14 Nkoala (n 6) 52.

15 Gilbert (n 6) 157; Nkoala (n 6) 52.

16 Gilbert (n 6) 158.

17 Nkoala (n 6) 53.

18 HC Groenewald, ‘The Role of Political Songs in the Realization of Democracy in South Africa’ (2005) 26(2) *Literator: Journal of Literary Criticism, Comparative Linguistics and Literary Studies* 121, 123.

19 The black danger or threat, a concept used during the Apartheid years in South Africa to refer to the perceived threat or danger that black people posed to the white minority.

high and feet stomping at mass gatherings, celebrations, funerals, protests and other public ANC events.²⁰ It will be shown below that this pivotal role of the leader or orator in contemporary struggle songs is still important at mass gatherings and public addresses.

However, the purpose of struggle songs is not only to create fear or to persuade during a direct march against Apartheid authorities. In terms of Aristotle's *Rhetoric*, the music must also put the audience in a certain frame of mind. Nehring therefore describes struggle songs in terms of their ability to connect the community of protestors, 'symbolically synchronizing their activities to the tune's rhythm.'²¹ Struggle songs can also be used by 'smaller groups of protestors within a larger demonstration ... to subvert the intention of protest organisers [and to assert] their autonomy.'²² And protest songs can convey meanings that are hidden from the public gaze or can be used to articulate that which the authorities do not want to hear.²³ Struggle songs were therefore often used by the people as a method of self-persuasion, and to 'rouse their fellow oppressed peoples to grow even more indignant against the injustices that they were being subjected to.'²⁴

A final characteristic of struggle music in terms of an Aristotelian rhetoric is its fluidity and flexibility to capture the emotions and articulate the conditions of the time. It is for this reason generally impossible to trace the composers and lyricists of struggle songs; they were not usually written down and the lyrics, meaning, and even structure of the songs were often changed to adapt to differing circumstances.²⁵ This was possible due to the use of functional repetition and imagery in the lyrics and their ephemeral character; songs were often 'produced in performance', lasting only a short while, never to be performed again.²⁶ Groenewald describes this feature of struggle music as 'oral art' or 'literature from below' and explains that struggle songs were the product of ordinary and often unlearned people, concerned about 'issues of their daily existence.'²⁷

Struggle songs as a form of 'oral art' are not only non-fictional, but also performative by nature.²⁸ The actual physical and musical performance of a song was therefore also part and parcel of its persuasiveness.²⁹ Gunner explains that the unique marriage between lyrics and dance creates a form of resistant masculinity; 'to inhabit a song, a dance in this way presented a moment of empowerment and an understanding, however

20 Gilbert (n 6) 157.

21 Holger Nehring, 'Book Review: Protest Song in East and West Germany since the 1960s' (2011) 36(3) *Peace and Change* 479, 480; Nkoala (n 6) 53.

22 Nehring (n 21) 480; Groenewald (n 13) 128.

23 Nehring (n 21) 480; James Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (Yale University Press, 1990) xi.

24 Nkoala (n 6) 54; Biko (n 5) 60.

25 Gray (n 3) 31; Anne-Marie Gray, 'The Liberation Songs: An Important Voice of Black South Africans from 1912 to 1994' (2004) 33 *Journal of Education* 85, 95.

26 Groenewald (n 18) 122; Liz Gunner, 'Jacob Zuma, The Social Body and the Unruly Power of Song' (2009) 108(440) *African Affairs* 27, 39.

27 Groenewald (n 18) 122; Scott (n 23).

28 Groenewald (n 18) 122, 126.

29 Nkoala (n 6) 54; Gunner (n 26) 30.

fleeting, of why one was alive'.³⁰ The performance of struggle songs can therefore be a means of empowerment and 'a means by which one inhabits or re-inhabits a tainted social space'.³¹ (The central role of the *toyi-toyi* dance in South African struggle music will be discussed below.)

Finally, the communal nature of struggle songs is important. Groenewald characterises struggle songs as forms of communal oral art, 'in the sense that a political song is always sung by a group'.³² Pring-Mill states: 'the passion is not so much that of an individual singer's personal response, but rather that of a collective interpretation of events from a particular "committed" standpoint'.³³ In this sense one can clearly draw distinctions between the struggle music associated with the mass democratic movements (notably the ANC and the PAC), on the one hand, and other protest music, performed by individuals. For instance, many individual singers and artists (especially during the turbulent 1980s) wrote and performed protest songs against Apartheid. Even Afrikaans performers like André du Toit (aka Koos Kombuis) and Johannes Kerkorrel (who started the so-called Voëlvry Movement)³⁴ self-identified as *protest* artists.³⁵ While these individuals were clearly also opposed to Apartheid, they were first and foremost individual artists who protested against many things—religion, cultural pieties, traditional authority, patriarchy and, of course, the racist policies of the National Party government. And while these protest songs (which can be compared to 1960s music of singers like Bob Dylan in the USA who protested against the Vietnam War) certainly had a relatively large following—especially among the young and disillusioned students on (mainly white) university campuses—the music was still associated with the individual performers, and not 'owned' by the collective. The effectiveness of *struggle music* thus lies in 'collective group synergy characterised by common intent, commitment and energy'.³⁶ Pring-Mill describes this communal effect of struggle songs as 'a blow at the invader, a rampart in defense, a weapon against injustice [and] a weapon with which to strike the enemy'.³⁷

3. STRUGGLE SONGS VERSUS OTHER POLITICALLY MOTIVATED MUSIC

The primary aim of struggle music is therefore to resist and the power thereof lies in its ability to persuade. These characteristics are also what distinguish struggle songs from other politically motivated songs and music, since struggle songs are not the only musi-

30 Gunner (n 26) 30.

31 *Ibid*; Scott (n 23) xii.

32 Groenewald (n 18) 128.

33 Pring-Mill (n 11) 179.

34 For a history see Pat Hopkins, *Voëlvry: The Movement that Rocked South Africa* (Zebra Press, 2006).

35 Koos A Kombuis, *Seks & Drugs & Boeremusiek* (Human & Rousseau, 2002) 17.

36 Groenewald (n 13) 125.

37 Pring-Mill (n 11) 182.

cal genre to emanate from periods of political turmoil. In South Africa, however, the net is usually cast quite wide when struggle songs are discussed in scholarly works.³⁸ Scholars, erroneously, include choral music, prayers and hymns like *Nkosi Sikelel' iAfrika* under the broad umbrella term 'struggle music'. Similarly, politically motivated popular music sung by black South Africans during the height of Apartheid, like *Meadowlands*, is also regarded as struggle music.

Enoch Sontonga composed the hymn *Nkosi Sikelel' iAfrika* in 1897 and it was first sung publicly in 1899 at the ordination of a Shangaan Methodist Minister, Reverend Mboweni.³⁹ By the early 1900s *Nkosi Sikelel' iAfrika* was being sung by choirs and in churches and schools, and in 1912 the South African Native National Congress (SANNC)—the forerunner of the African National Congress (ANC)⁴⁰—adopted *Nkosi* as its national anthem. This hymn-like music is known as *iMusic* and is described as 'a blend of nationalism with a moral, Christian viewpoint'.⁴¹

During the height of the Apartheid years, however, the lyrics of this hymn took on a different meaning for the oppressed and were used as a means to unify people and convince and reassure them of their 'projection for their future'.⁴² It must be emphasised, however, that *Nkosi* was not initially composed to be sung as a struggle song; it was only as the liberation struggle intensified and 'led to a more politically conscious society ... and avenues were sought to express growing discontent' that the meaning and function of *Nkosi* were politicised.⁴³

Another example is *Meadowlands*, from the vocal jive genre, composed in response to a particular political event, namely the removal and relocation of the inhabitants of Sophiatown. Typical of the vocal jive lyrics of this time, Strike Vilakazi managed to incorporate multiple layers of meaning and significance in the lyrics of this song, and audiences were left with the challenge of deciphering its deeper meanings.

Otla utlwa makgowa arei	You'll hear the whites say
Are yeng ko Meadowlands	Let's move to Meadowlands
Meadowlands Meadowlands	Meadowlands Meadowlands
Meadowlands sithando sam	Meadowlands, my love
Otla utlwa botsotsi bare	You'll hear the tsotsis say
Ons dak ni ons pola hier.	We're not moving, we're staying here.

³⁸ Gray (n 3); Groenewald (n 18); Gray (n 25); Gunner (n 26).

³⁹ Gray (n 25) 89.

⁴⁰ The name was changed in 1923.

⁴¹ Gray (n 25) 92.

⁴² *Ibid.*, 90; David B Copland, *In Township Tonight! Three Centuries of South African Black City Music & Theatre* (Jacana Media, 2nd edn 2007) 58–61.

⁴³ Gray (n 25) 90.

While the government interpreted this song as ‘supportive of their removals programme’, *Meadowlands* soon became a ‘protest anthem against the Sophiatown removals.’⁴⁴ Yet, while *Meadowlands* (and other vocal jive songs) therefore played an important political role, especially with regard to its ability to articulate cultural identity for its audience, it does not fall squarely within the genre of struggle music for the following reasons:

- political issues were never directly addressed;
- the music had as much of a commercial role as it had a political role; and
- ‘the fact that sales were not necessarily proportional to the gravity of the issue being referenced, demonstrates the limits to which political popular consciousness may be deciphered from the marketplace, for any political function of popular music is likely to be mediated by what many argue is its primary function, entertainment.’⁴⁵

It is therefore necessary for a distinction to be drawn between ‘struggle music’ as a discrete genre and other politically motivated music. In contrast to struggle songs, where the resistance is intentional, the composers or performers of other politically motivated songs/music may not necessarily have intended, nor will the audience necessarily interpret/experience, the music/song as resistant.⁴⁶ While other politically motivated songs/music play an important and indirect role in critiquing the political regime, voicing frustrations and articulating experiences, struggle songs usually have a more direct and radical political agenda.⁴⁷

4. APARTHEID STRUGGLE MUSIC

The Afrikaans word ‘*Apartheid*’ literally means ‘separateness’ and refers to the legally sanctioned system of racial segregation that governed all aspects of South Africans’ lives from approximately 1948 to the early 1990s. In 1952, Hendrik Verwoerd, an erst-while prime minister of South Africa who is also known as the ‘architect of Apartheid’, described his vision for this legislative scheme as follows: ‘... a coordinated long-term policy [in terms of which] the various Acts, Bills and also public statements which I have made all fit into a pattern, and together form a single constructive plan.’⁴⁸

⁴⁴ Lara Allen, ‘Commerce, Politics, and Musical Hybridity: Vocalising Urban Black South African Identity during the 1950s’ (2003) 47(2) *Ethnomusicology* 228, 235.

⁴⁵ *Ibid.*, 237–8.

⁴⁶ *Ibid.*, 238.

⁴⁷ Allen (n 44) 238–9.

⁴⁸ TRH Davenport and Christopher Saunders, *South Africa: A Modern History* (Palgrave Macmillan, 5th edn 2005) 389; Nkoala (n 6) 59; Henry Kenney, *Architect of Apartheid: HF Verwoerd, An Appraisal* (J Ball, 1980).

This 'single constructive plan' effectively legalised the separate development of all aspects relating to the life and personhood of non-white South African citizens. For example, the Prevention of Illegal Squatting Act (1951) was the primary legislation empowering the Minister of Native Affairs to remove, relocate and resettle all non-white South Africans from public and private land to areas specifically designated for their use. In addition to this prescribed territorial separation the Apartheid scheme also restricted non-whites' mobility. The Natives (Abolition of Passes and Coordination of Documents) Act (1952) required all non-whites to 'carry reference books containing their photographs, and information about their places of origin, their employment records, their tax payments and their encounters with the police'.⁴⁹ The Bantu Education Act (1953), in turn, ensured a system of separate education and the Nationalist Party furthermore made a concerted effort to bolster 'white' culture and suppress the culture and arts of the 'native populations'.⁵⁰

It is against this background of Verwoerd's ideal of a total separation of black and white that the resistance movements started to take form and music became a weapon in the struggle.⁵¹ Struggle songs are an example of the 'sustained insurgency of lower-class actors' offering powerful critiques of key issues of the liberation struggle, sketching the political and socio-economic conditions that inspired the singers, and creating a true historical record of the politics of the time.⁵²

A song is something that we communicate to those people who otherwise would not understand where we are coming from. You could give them a long political speech—they would still not understand. But I tell you: when you finish that song, people will be like 'Damn, I know where you nigga's are comin' from. Death unto Apartheid!'—Sifiso Ntuli.⁵³

Vuyisile Mini is generally regarded as the 'father of protest songs' in South Africa. Poet Jeremy Cronin described him as follows: 'Song had become an organizer, and he was the embodiment of this reality.'⁵⁴ Mini was an active member of the ANC and one of the first to be recruited into the military wing in 1961. He was arrested in 1963 on a number of charges for political crimes and when he refused to testify against his comrades he was sentenced to death.⁵⁵

Mini's song *Ndodemnyama we Verwoerd* ('Watch out Verwoerd'), also known as *Pasopa Verwoerd*, was one of the most popular protest songs during the Apartheid era and embodied both a statement of protest and a tribute to the strength of the freedom

⁴⁹ Davenport and Saunders (n 48) 390.

⁵⁰ *Ibid*, 391.

⁵¹ *Ibid*, 392.

⁵² Gray (n 3) 32; Groenewald (n 18) 123; Gray (n 25) 85, 89.

⁵³ Lee Hirsch, *Amandla! A Revolution in Four-Part Harmony* (film) (Kwela Productions, 2002).

⁵⁴ *Ibid*; Gunner (n 26) 37.

⁵⁵ Raymond Suttner, 'Masculinities in the African National Congress-Led Liberation Movement: The Underground Period' (2005) 37 *KLEIO: A Journal of Historical Studies from Africa* 71, 92.

fighters.⁵⁶ Hugh Masekela described this song as follows: ‘That song sounds like a fun song, but it’s really like “Watch out Verwoerd, here comes the black man, your days are over.”’⁵⁷

Nantsi’ndodemnyama, Verwoerd (x4)
 Pasopa nantsi’ndodemnyama, Verwoerd (x4)
 Nantsi’ndodemnyama, Verwoerd (x4)
 Here is the black man, Verwoerd (x4)
 Watch out here comes the black man, Verwoerd (x4)
 Here comes the black man, Verwoerd (x4)

The lyrics of this song are simple and repetitive and are therefore easily transferable in a group context.⁵⁸ The song was usually sung when struggle activists were marching in direct confrontation with the Apartheid government and it basically offers a warning to Verwoerd. *Pasopa* refers to the Afrikaans word *pasop* meaning *look out!* or *lumkela* in isiXhosa. Yet, Nkoala points out that a variation of the Afrikaans word *pasop* was used, possibly deliberately, in order for the Apartheid government to understand the message of the song and to ‘comprehend that a direct warning and challenge was being issued to them.’⁵⁹ ANC National Executive Committee member Thandi Modise said: ‘When you really, really wanted to make the Boers (Afrikaaners) mad, you sang *Pasopa Verwoerd* because you were almost daring them.’⁶⁰

Senzeni Na? was a song usually sung at funerals, protest marches and rallies during the Apartheid era but also in the post-1994 dispensation.⁶¹ Nkoala highlights the use of rhetorical questions in this song. The aim of these questions was not to be answered but rather to expose the ‘absurd nature of the race-based laws of Apartheid.’⁶² The overall effect of the rhetorical questions in this song was to ‘evoke an internal response from the subconscious of those being questioned.’⁶³

Senzenina? (x4)	What have we done? (x4)
Sonosethu, ubumyama? (x4)	Is our sin the fact that we are black? (x4)
Sonosethuyinyaniso? (x4)	Is our sin the truth? (x4)
Sibulawayo (x4)	We are being killed (x4)
Mayibuye i Africa (x4)	Return Africa (x4)

56 Michela E Vershbow, ‘The Sounds of Resistance: The Role of Music in South Africa’s Anti-Apartheid Movement’ (2010) 2(6) *Student Pulse* 265.

57 Hirsch (n 53).

58 Nkoala (n 6) 58.

59 *Ibid.*

60 *Ibid.*, 59.

61 *Ibid.*, 55.

62 *Ibid.*, 56.

63 *Ibid.*, 55; Gray (n 25) 95.

Nkoala also emphasises that the last verse of the song deviates from the rhetorical questions being asked in the previous verses and takes the form of a demand or instruction. This is effective in evoking anger and ‘communicates a sense of frustration at the injustices of the time’.⁶⁴

As the military wing of the ANC, known as Umkhonto we Swize⁶⁵ or MK, intensified its onslaught against white domination, the use of music as a unifying and motivating tool also increased. Music was often talked about as ‘a weapon of struggle’ and songs like *Sobashiy’abazali* (‘We will leave our parents’) became popular at the MK training camps.⁶⁶

Sobashiy’ abayal’ ekhaya	We will leave our parents at home
Siphuma sangena kwamany’ amaywe	We go in and out of foreign countries
Lapho kungayi khon ‘ubaba nomam	To places our fathers and mothers don’t know
Silwel’ injululeko	Following freedom
Sithi salani	we say goodbye
Salan ‘ekhaya	goodbye
Salan ‘ekhaya	goodbye home. ⁶⁷

It is evident from the words of *Sobashiy’abazali* that this struggle song is primarily aimed at nourishing hopes and aspirations, lightening dark moods and stimulating the comrades ‘out of profitless inaction’.⁶⁸

A struggle song that can be seen as a communiqué or instruction from the masses to their leaders can be found in a 1980s song calling for the release of Nelson Mandela.⁶⁹

Oliva Tambo Oliva thetha noBotha akhulul’ uMadiba (x2)
UMandel’ uyobusa Akhulul’ uMadiba (x4)
Oliver Tambo Oliver Tambo speak to Botha so that he can release Madiba (x2)
Mandela will rule so that he can release Madiba (x4)⁷⁰

And a more direct command with violent undertones can be found in the following struggle song.⁷¹

Hamba Hamba kahle Mkhonto *Mkhonto* we-Mkhonto, Mkhonto Wesizwe (x2)
Thina Thin’ abant’ boMkhonto siyimisele ukuwabalala wona amabhunu (x2)
Go Go well Mkhonto *Mkhonto* you Mkhonto, Mkhonto Wesizwe (x2)
We we the people of Mkhonto we are determined to kill the Boers (x2)⁷²

64 Nkoala (n 6) 57.

65 Directly translated as ‘spear of the nation’.

66 Vershbow (n 56); Olwage (n 6) 169.

67 Olwage (n 6) 169.

68 Pring-Mill (n 11) 183.

69 Groenewald (n 18) 126.

70 The parts in italics are the call of the lead singer(s) and the other parts are sung by the group.

71 Groenewald (n 18) 129.

72 The parts in italics are the call of the lead singer(s) and the other parts are sung by the group.

With regard to references to ‘the Boers’ in many struggle songs, Groenewald submits that it comes only second to the names of and other references to political leaders and icons.⁷³ (It will be shown below that references to ‘the Boers’ are still made in contemporary struggle songs.)

An important aspect of struggle music that was also alluded to in section 2 is its performative nature. Songs of protest were often sung in a group setting and were accompanied by the *toyi-toyi* dance. Groenewald describes the performance of these struggle songs in terms of its function to create a liberating space and the lyrics of the songs as the fuel of performance in a political context.⁷⁴ He also identifies four elements that must be present for such a performance to be effective: context (socio- cultural- political circumstances); a situation or event like a wedding, funeral or march; and performers, a text and an audience.⁷⁵

The *toyi-toyi* is a militant style of singing and dance that ANC exiles learned from Zimbabwean guerrillas when they joined forces with ZAPU in the late 1960s.⁷⁶ The ‘bark’ of the *toyi-toyi*, however, is said to originate from the MK training camps in the North African states of Algeria and Morocco.⁷⁷ The *Oxford Dictionary of Southern African English on Historical Principles* defines the *toyi-toyi* as

A quasi-military dance-step characterized by high-stepping movements, performed either on the spot or while moving slowly forwards, usually by participants in (predominantly black) protest gatherings or marches, and accompanied by chanting, singing [of freedom songs], and the shouting of slogans.⁷⁸

The *toyi-toyi* was their weapon and so was the volume of their voices. With regard to the *toyi-toyi* it was said that ‘We did not have the technology of warfare, the tear gas and tanks, but we had this weapon.’⁷⁹ And Desmond Tutu remarked: ‘It scared the living daylight out of ... the enemy out there. Whenever they heard it ... it sent shivers down their spine.’⁸⁰

⁷³ Groenewald (n 18) 133.

⁷⁴ *Ibid.*, 127.

⁷⁵ Groenewald (n 18) 126; Groenewald (n 13) 125.

⁷⁶ Groenewald (n 18) 130.

⁷⁷ *Ibid.*

⁷⁸ Penny Silva *et al.*, *A Dictionary of South African English on Historical Principles* (Oxford University Press, 1996) 739.

⁷⁹ Vershbow (n 56).

⁸⁰ Groenewald (n 18) 127.

5. STRUGGLE MUSIC IN THE NEW SOUTH AFRICA

Between 1990 and 1996 the political and social landscape of South Africa changed radically. On 11 February 1990, Nelson Mandela walked out of the Victor-Verster Prison in Paarl, only days after President FW de Klerk announced the unbanning of the ANC, the Pan Africanist Congress (PAC) and the South African Communist Party. The first national election for a new democratic South Africa was held in 1994, and the current Constitution—which has been heralded as one of the most progressive—was enacted in 1996.⁸¹ In 1993 President FW de Klerk and President Mandela received the prestigious Nobel Peace Prize for their concerted efforts for a peaceful transition to a new democratic South African rainbow nation, and today South Africa is generally regarded as one of the beacons of hope and leadership on the African continent.

Yet, although democracy has been achieved, struggle music continues to play an important role in South African politics, especially for those political parties with a strong liberation history such as the governing ANC, the PAC and the Azanian People's Organisation.⁸² In August of 2001, for example, at an anti-privatisation strike, members of the Congress of South African Trade Unions voiced their disgust at the government's drive to privatise certain state-owned companies.⁸³

Radebe, Radebe, Radebe⁸⁴

Ngamasimba le nt' oyezayo

Hee thula, thula' thula

Ngamasimba le nt' oyezayo

Geraldine, Geraldine, Geraldine⁸⁵

Bubufebe le nt' oyezayo

Hee thula, thula' thula

Bubufebe le nt' oyezayo

What you are doing is shit

Hey, quiet, quiet, quiet

What you are doing is shit

What you are doing is fornication

Hey, quiet, quiet, quiet

What you are doing is fornication

Compared to the many struggle songs from the Apartheid era, like *Baba Mandela*, *Papa Sisulu*, *Sikokhele Tambo* and *Mandela Wethu*, where ANC leaders were praised and allegiances confirmed, contemporary ANC leaders have in recent years been the subject of protestors' wrath.⁸⁶ For example, ex-President Thabo Mbeki has been criticised as follows:⁸⁷

⁸¹ Denis Constant-Martin, *Sounding the Cape: Music, Identity and Politics in South Africa* (African Minds, 2013) 267.

⁸² Nkoala (n 6) 60; Groenewald (n 13) 126.

⁸³ Groenewald (n 18) 130.

⁸⁴ Jeff Radebe was Minister of Public Enterprises at that time.

⁸⁵ Geraldine Frazer-Moleketi was Minister of Public Administration at that time.

⁸⁶ Gray (n 25) 96.

⁸⁷ Groenewald (n 18) 131.

Shilowa ywuyaz' into oyifunayo (x3)	Shilowa, you don't know what you want
Sikunikil' isandla	We gave you the hand
Sakunika nengalo	We even gave you the arm
Sakunika amabele	We gave you the breasts
Awuyaz' into oyifunayo	You don't know what you want
Mbeki awuyaz' into oyifunayo	Mbeki, you don't know what you want
Sakuthath' ehlathini	We took you from the bush
Sakunika ivoti	We gave you the vote
Sakufak' epalamende	We put you in parliament
Awuyaz' into oyifunayo	You don't know what you want

Current president Jacob Zuma has also been the subject of new contemporary struggle songs. In 2006, for example, singers outside the Johannesburg High Court where Zuma was standing trial on a charge of rape expressed their support for him, including support that he will be the future president of the country. A myriad of personal and political views and issues were raised in these songs. In addition to the views raised on the political succession debate and the support for Zuma becoming the next president, songs were also used to challenge the judiciary and National Prosecuting Authority of South Africa for prosecuting Zuma and to intimidate Zuma's accusers. In contrast, women's rights groups such as People Opposing Woman Abuse sang in support of Zuma's accuser.⁸⁸

Zuma himself participated in the resurrection and singing of a pre-1994 resistance song, *Umshini Wam*, which expresses a militant spirit with reference to a machine gun. The song was originally sung during the Apartheid years by youth in Orlando and Soweto, and Zuma first sang this song in 2005, in Durban, when he gave evidence in the trial against Durban businessman and former ANC activist Shabir Shaik.⁸⁹ Today this song is explicitly recognized as Zuma's own 'theme song'.⁹⁰

Umshini wami, umshini wami	My machine gun, my machine gun
We Baba	Oh Father
Awuleth' umshini wami	Please bring me my machine gun

But while the political parties and individuals with a strong liberation history have been able to 'harness the persuasive powers inherent in struggle songs in South Africa's post-Apartheid dispensation', the opposition party—the Democratic Alliance—has mostly failed in its attempts to use struggle songs in campaigning as the party does not yet 'fully understand how these songs function as tools of persuasion, and because the party has not yet managed to effectively utilise the historical memory imbedded in these songs to their advantage'.⁹¹

⁸⁸ *Ibid*, 126, 129.

⁸⁹ Gunner (n 26) 28, 39.

⁹⁰ Groenewald (n 13) 133; Gunner (n 26).

⁹¹ Nkoala (n 6) 51.

A non-political civil society group that has been able to harness the persuasive powers of struggle music is the Treatment Action Campaign. This group has used struggle music effectively in its protests against the South African government's stance on HIV/AIDS and the delivery of anti-retroviral medicine to all HIV-positive South Africans.⁹² Groenewald also reports that new songs have been used to encourage people to vote, announce that the ANC is carrying out its duties, and call on people to volunteer.⁹³ An interesting new song with the typical multiple layers of significance and meaning as described in section three above can be found in the following:

Hayayayaya siyasebeletswa Hayayayaya we are being worked for

Groenewald suggests that this song can either mean that the ANC government is performing its duties or that the tables have been turned on the whites, who are now working for the blacks.⁹⁴

References to the Boers also remain rife in contemporary struggle songs, and most of these songs retain the violent undertones and threats that they carried during the Apartheid years. But although it seems as though 'the Boers have seared the memories of the singers indelibly', it must also be noted that these singers often apologise after singing these songs, explaining that the words should not be taken seriously and that 'the performance of a political song locks the singers into the ideology of the song, simply because the act of performance is captivating'.⁹⁵ Constant-Martin, quoting Paul Ricoeur, recognises this in terms of the traces that music leaves, and 'that can be retrieved once the causes of oblivion have vanished; it facilitates processes of reminding, of reminiscing and recognising. It can [also] be used to re-appropriate and re-assess large sections of the past in order to reconstruct memories'.⁹⁶ In other words, many protestors still sing these songs because of their communal effect and the manner in which they captivate a shared identity and ideology of the past, reminding them where they have come from and where they are going.

One example of such a song tells the story of the murder of Chris Hani, an anti-Apartheid activist and Communist party leader, and the 'arrogance of the Boers' who thought that people would forget and forgive this brutal act.⁹⁷

Ayangcangcazela Ayangcangcazela amaBhun' abulala Chris Hani, ayangcangcazela (x2)
Uth' asixole kanjani? Uth' sixole kanjani amabhun' abulala Chris Hani, sizoxola kanjani? (x2)
They are trembling they are trembling (with fear) the Boers who killed Chris Hani, they are trembling (x2)

⁹² Groenewald (n 18) 132.

⁹³ *Ibid.*, 134.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ Constant-Martin (n 81) 305.

⁹⁷ Groenewald (n 18) 133–4.

*How do you think must we forgive? How do you think must we forgive the Boers who killed Chris Hani, how will we forgive? (x2)*⁹⁸

However, the most notorious contemporary struggle song in which references to ‘the Boer’ still feature is *Dubulu’ iBhunu* also known as *Ayesaba Amagwala* (shoot the Boer). The history of the song is unclear but it is generally accepted that Collins Chabane put the words to music.⁹⁹ Peter Mokaba popularised the song when he sang it at the memorial rally of Chris Hani, and it was later resurrected in 2002/3 at meetings of the ANC Youth League and at Mokaba’s funeral in Polokwane.¹⁰⁰

It was in light of these public performances of the song that a political party, the Freedom Front, lodged a complaint with the South African Human Rights Commission (SAHRC). At first, the SAHRC rejected the party’s contention that the song amounted to hate speech in terms of section 16(2)(c) of the Constitution¹⁰¹ and that it incited the chanting of the slogan ‘kill the farmer, kill the boer’.¹⁰² But on appeal, a three-member panel for the SAHRC held that ‘given its history and the content and context in which it was chanted, it would directly contribute to a feeling of marginalization and adversely affect the dignity and sense of well-being of the Afrikaners as a minority group’.¹⁰³ It was consequently held that while the historical purpose of the song and the slogan was to mobilise people against Apartheid, it had no place in the new South Africa. ‘It was a slogan for a particular time and in a particular context [and] it reflected the intensity of the race based conflict that was raging in South Africa at that time.’¹⁰⁴

The song surfaced again in the public sphere when Julius Malema, former leader of the ANC Youth League, sang it at his 29th birthday party on 3 March 2010. It became particularly problematic, however, when he sang it again a few days later at a public rally held at the University of Johannesburg, and at a number of public addresses thereafter. The SAHRC was once again inundated with hundreds of complaints about the violent and inciting nature of the song and what was described as ‘a call to murder white farmers in South Africa’.¹⁰⁵

Dubula! Dubula! Dubula nge s’bhamu
Dubul’ ibhunu

Shoot! Shoot! Shoot them with a gun
shoot the Boer

⁹⁸ The parts in italics are the call of the lead singer(s) and the other parts are sung by the group.

⁹⁹ *Afriforum v Malema (Vereniging van Regslui vir Afrikaans as Amicus Curiae)* 2011 (12) BCLR 1289 (EQC), 1312, [65]–[66].

¹⁰⁰ Karmini Pillay, ‘From “Kill the Boer” to “Kiss the Boer”: Has the Last Song been Sung?’ (2013) 28(1) *South African Public Law* 221, 224.

¹⁰¹ s 16 of the Constitution provides that every person has the right to freedom of expression, including freedom of artistic creativity (s 16(1)(c)), but that the right does not extend to ‘advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm’ (s 16(2)(c)).

¹⁰² *Freedom Front v SAHRC* 2003 11 BCLR 1283.

¹⁰³ Pillay (n 100) 224; *Freedom Front* (n 102) 1299.

¹⁰⁴ *Freedom Front* (n 102) 1298.

¹⁰⁵ Susan Benesch, ‘Words as Weapons’ (2012) 29(1) *World Policy Journal* 7; Pillay (n 100) 221.

Dubula! Dubula! Dubula nge s'bhamu	Shoot! Shoot! Shoot them with a gun
Dubul' ibhunu	shoot the Boer
Mama, ndiyeke ndidubul' ibhunu	Ma, let me shoot the Boer
Dubula! Dubula! Dubula nge s'bhamu	Shoot! Shoot! Shoot them with a gun Ziyareypa
lezinja	These dogs rape us
Dubula! Dubula! Dubula nge s'bhamu	Shoot! Shoot! Shoot them with a gun

Malema argued, however, that he was only 'preserving an old anthem from the anti-Apartheid struggle—a piece of cultural heritage not to be taken literally'.¹⁰⁶ He further explained that he was not encouraging his listeners to shoot white people but that the singing of the song 'merely symbolised the destruction of the former white Apartheid regime'.¹⁰⁷ ANC spokesman Jackson Mthembu also defended the song, explaining that it had been 'sung for many years before Malema was born and must be understood in the context of the anti-Apartheid struggle'.¹⁰⁸ U2 singer Bono seconded this, comparing the song to the Irish Republican Army songs that he used to sing with his uncle as a child and saying that it is about *where* and *when* you sing such songs. Thus, while speech and song can be a powerful catalyst for human action, both Mthembu and Bono argued that the meaning and impact of such songs depend on the context and on who is singing and who is listening.¹⁰⁹

Yet, while Fischlin and Heble agree that nothing in sound alone is intrinsically revolutionary, rebellious or political, it is also impossible to divorce sound from its social and political context. To consider sound merely as 'meaningful in its abstract and metaphysical potential but irrelevant in what it has to say to the here and now of daily life, is to imagine sound as an abstraction, separate from its worldly consequences'.¹¹⁰ This is especially significant in the context of the debate about the *Dubulu' ibhunu* struggle song, as Miriam Makeba herself has said that 'In our struggle, songs are not simply entertainment for us. They are the way we communicate'.¹¹¹ When these songs are cited, they thus raise previous memories for the performers and can be seen as a means of reminding, empowering and reaffirming a tainted social space.¹¹²

Despite the ANC's calls for the song to form part of the country's heritage and for it to be retained, Judge Halgryn confirmed his decision in which he placed an absolute prohibition on the song, and found that the publication and chanting of the words *dubul' ibhunu* prima facie satisfies the crime of incitement to commit murder.¹¹³ Halgryn also

¹⁰⁶ Benesch (n 105) 8; Pillay (n 100) 223.

¹⁰⁷ Pillay (n 100) 223; *Afriforum* (n 99).

¹⁰⁸ Benesch (n 105) 8.

¹⁰⁹ *Ibid.*, 9.

¹¹⁰ Daniel Fischlin and Ajav Heble, *Rebel Music: Human Rights, Resistant Sounds and the Politics of Music Making* (Black Rose Books, 2003) 11.

¹¹¹ Makeba (n 5); Gray (n 25) 86.

¹¹² Gray (n 25) 98; Gunner (n 26) 30; Scott (n 23) xii.

¹¹³ *ANC v Harmse (Afriforum & another as intervening parties); In re Harmse v Vadwa* [2011] 4 All SA 80 GSJ; Pillay (n 100) 225.

approved an urgent interdict issued by Judge Bertelsmann prohibiting Malema from publicly singing the song, and confirming that the true yardstick of hate speech is neither the historical significance thereof nor the context in which the words are uttered, but rather the effect of the words and how they are objectively perceived.¹¹⁴ Bertelsmann also held that ‘the effect of the offending words contributes to the alienation of the entire Afrikaner community, they convey a particularly divisive message to the majority group that the Afrikaners are less worthy of respect and dignity, and there is a real likelihood that the words cause harm’.¹¹⁵

Halgryn concluded that the song is not one ‘which our society needs to be able to hear ... nor does it aid the process of stability and change ... and it is not necessary to promote ... artistic or cultural progress’.¹¹⁶

The final words on the rightful place of this struggle song in contemporary South African politics were spoken by Judge Lamont CG for the Equality Court in Johannesburg. He also banned the singing of *Dubulu’ iBhunu* in terms of South African law, ‘prohibiting speech that demonstrates a clear intention to be hurtful, to incite harm, or to promote hatred’.¹¹⁷

6. THE PROBLEM OF TRANSLATING STRUGGLE SONGS

The decision to ban the singing of *Dubulu’ iBhunu* has been criticised for not properly contextualising the heritage of the song and excluding the social, political and cultural complexities of the country’s historical background.¹¹⁸ It has also been stated that insufficient cognisance was given to the evidence led by Malema and the ANC on the translation of the word *ibhunu* as Boer or farmer.

While the literal English translation of the words was never challenged, Malema and the ANC argued that the ‘the words sung by Malema in the original language had a particular meaning to the particular grouping present on each occasion that the song was sung and [that it had] the same meaning to all persons who were familiar with the song’.¹¹⁹ Malema explained that the words are innocuous, and that *ibhunu* refers not only to farmers, but to Afrikaners in general, and that the reference was ‘intended to symbolise the form of exploitation and oppression of blacks in the Republic of South Africa’.¹²⁰ It was not, therefore, a call for black people to kill individuals or whites as a

¹¹⁴ *Afriforum v Malema* 2010 (5) SA 235.

¹¹⁵ *Ibid*, 239; Pillay (n 100) 226.

¹¹⁶ *ANC v Harmse* (n 113) 88.

¹¹⁷ *Afriforum* (n 99); Benesch (105) 9; Pillay (n 100) 224.

¹¹⁸ Pillay (n 100) 227.

¹¹⁹ *Afriforum* (n 99) 130, [52].

¹²⁰ *Afriforum* (n 99) 1308; Pillay (n 100) 231.

racial group, but rather a reminiscence from the past with reference to the regime of the Apartheid era.

However, Judge Lamont emphasised the *double entendre* of the words of this song (a characteristic of struggle songs that was also discussed above). He held that the word *ibhunu* is a phonetic corruption of the word *Boer* and that this word was used to refer to the regime or the oppressor in the context of Apartheid. However, while the words of this song, *dubula ibhunu*, as it was originally sung, therefore meant that the regime must be destroyed, a double meaning also existed that could not have been lost on either the singer or the audience; the words can also be construed to mean that white farmers or whites as a racial group must be shot/murdered.

What is particularly ironic about this exposition on the true meaning of the words and how it was translated in the media is that language itself was a contested terrain during the Apartheid era and still is to this day! Nkoala therefore argues that since ‘people’s culture and ideas are intimately linked to the language that they [speak] ... the exclusive nature of the struggle songs ... must be borne in mind, even as some of the lyrics have had to be translated for the purposes of academic writing that can be understood by a larger audience.’¹²¹

In her research, Nkoala has also alluded to the meaning of these songs being deeply embedded in ‘where they came from and how they were used in the past’.¹²² She furthermore warns that the translation of struggle songs is particularly cumbersome as a great deal of meaning is lost in the translation process. She states:

isiXhosa and isiZulu lyrics [of struggle songs] were deliberately chosen by the composers because of their political and linguistic significance. Attempts to translate them into English often fail because the ideas embodied are specific to those languages and cannot be adequately articulated in one or two English words. This is not to say that words do not exist to accomplish this, but rather this means that the corresponding English words have different meanings and discourses to their vernacular counter parts.¹²³

7. IS THERE STILL AN ‘APPROPRIATE’ CONTEXT LEFT FOR THE PERFORMANCE OF STRUGGLE SONGS?

In defending the public singing of *Dubula ibhunu*, it was also contended that struggle songs like these are ‘a powerful expression of emotion and unites people who share a common experience’ and that the people who knew these songs also knew what they meant.¹²⁴ It was consequently argued that liberation songs ought to be preserved as part

¹²¹ Nkoala (n 6) 61.

¹²² *Ibid*, 60.

¹²³ *Ibid*, 58.

¹²⁴ *Afriforum* (n 99) 1312, [54]; Pillay (n 100) 224.

of the South African heritage and in the interests of the preservation of a complete South African history.¹²⁵ In this regard NUMSA President Cedric Gcina said:

The singing of the song in memory of fallen members was not a desire to kill farmers. Struggle songs are part of our history and heritage. Revolutionary songs continue to play an important role ... Therefore courts cannot be used to erase our memories and demobilize our revolutionary activism by banning struggle songs.¹²⁶

But this argument could not save the struggle song from being banned. The court (in a classic analysis of freedom of speech limitations and hate speech) emphasised the potentially inflammatory nature of these songs and the fact that they are ‘usually designed to psychologically destroy the image of the enemy as a person in the mind of a soldier’. Struggle songs have historically been linked to a process of dehumanisation of ‘the enemy’, which is recognised as a strategy that can lead to genocide. This was held to be worrisome as people could easily become inflamed again, and ‘act in accordance with that passion instilled in them by the words.’¹²⁷

Other typical characteristics of struggle songs as discussed above were also considered. It was held, for example, that they create a bond between soldiers and encourage them to unite against the enemy, and that they can mutate and change depending on the mood, its envisaged purpose and the particular occasion.¹²⁸

Regard was furthermore had to the manner in which the speaker, Malema in this instance, used the words in order to convey a message, the gestures that were used and what the words implied in the particular context.¹²⁹ It was said that his version, which sounded like a staccato chant, did not resemble the original music by Collins Chabane which sounded more legato and hymn-like. And, typical of the call-and-answer format of struggle songs, Malema took the lead in singing the song and the audience sang the chorus, but in taking the lead Malema was in a strong position to influence and elicit the desired responses from the audience.¹³⁰

With regard to the insider–outsider politics that this song created, the court came closer to the essence of transformative constitutionalism and the transformative project of the new political and legal dispensation. It thus held that the song was sung at public gatherings with multi-racial and multi-cultural audiences who had probably not been involved in the struggle and therefore do not know the true meaning of the song.¹³¹ Judge Lamont also held that the public at large—even those who do not attend the public rallies where these songs are sung—should be regarded as being the audience of the

¹²⁵ *Afriforum* (n 99); Pillay (n 100) 225.

¹²⁶ *Afriforum* (n 99) 1312, [80].

¹²⁷ *Ibid.*, 1312, [62] and [94].

¹²⁸ *Ibid.*, [64]–[65].

¹²⁹ *Ibid.*, [60]–[62] and [96].

¹³⁰ *Ibid.*, [66]; Pillay (n 100) 233.

¹³¹ *Afri-Forum v Julius Sello Malema* 2011 12 BCLR 1289 (EQC), para 87; Pillay (n 100) 232.

song.¹³² In this sense, the music (although historically important and no doubt a significant cultural good) does not fit with the transformative ethos: the difficult but necessary accommodation of diverse cultural groups aspiring to share a common South African identity and a common human dignity. Having already decided that the words of the song amounted to hate speech, Lamont held that ‘all hate speech has an effect, not only upon the target group but also upon the group partaking in the utterance.’¹³³ It was also held that the ultimate test to be applied when such majoritarian and minoritarian positions were involved was ‘whether the measure under scrutiny promotes or retards the achievement of human dignity, equality and freedom.’¹³⁴ The music, which helped to bring about change, was now, performed in a changed society, held to be incompatible with the tenets of the transformative project.

8. CONCLUSION

Struggle songs have played an important role in the fight for South Africa’s liberation, and many believe that the fight would have been much longer, bloodier, and perhaps ultimately unsuccessful if it had not been for the comfort, motivation and solidarity that these songs provided.¹³⁵ It is also clear from the discussion above that the continued presence and importance of struggle songs in the new political dispensation in South Africa should not be underestimated.¹³⁶

Some of these songs, however, depending on the words—their true and perceived meaning, and possible violent undertones—may struggle to validate their continued existence in a new democratic dispensation. It can be argued, as it was in the case of *Dubula ibhunu*, that times have changed, and while the song was acceptable at a past point in time, it is no longer acceptable.¹³⁷

But before struggle songs are so easily dismissed, heed should also be had to the argument submitted on behalf of the ANC that courts are erasing part of our history by prohibiting the public singing of certain struggle songs. Let us also remember the words of Malema, who argued that ‘the regime lives on in the form of the untransformed person who holds benefits conferred upon him by the regime and which he has not relinquished.’¹³⁸

It seems that the question of whether the continued use of a particular struggle song will enjoy its rightful place in a new democratic dispensation and based on consider-

¹³² *Afriforum* (n 99) 1312, [91].

¹³³ *Ibid*, 1312, [94].

¹³⁴ *Ibid*, 1304, [34].

¹³⁵ Groenewald (n 18) 135.

¹³⁶ Gunner (n 26) 8.

¹³⁷ *Afriforum* (n 99) 1304, [94].

¹³⁸ *Ibid*, [105].

ations of fairness in allowing historic practices, will depend on whether, not only those who sang it originally but all now involved, are able to accept, appreciate and understand its message. However, if struggle songs are misunderstood and too easily discarded, we risk losing an important part of our history and heritage, as documented in the lyrics, as part of South Africa's 'communal oral art'. More fundamentally, a heavy-handed approach to significant cultural goods seems to be at odds with the difficult, but necessary, obligation negotiated more than 30 years ago, namely to transform South African society, not superficially, but in very real terms. Song and dance may yet help us along the way.