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**SPEECH BY FORMER PRESIDENT FW DE KLERK  
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**EQUALITY, FREEDOM AND NON-DISCRIMINATION**

It is a great honour to accept the *Praeses Elit* award from so ancient and august an institution as Trinity College. It is also a pleasure to address the Trinity College Law Society. As you may know, I myself am a lawyer. In 1972 I almost became a law professor - but chose instead to go into politics. The rest, as they say, is history.

We seldom stop to think how radically the world has changed since the beginning of the 20<sup>th</sup> century: it is not only the material conditions in which we live that have changed out of all recognition, but perhaps, more significantly, many of our core values and social attitudes.

At the beginning of the 20<sup>th</sup> century Europeans still believed that they had some almost divinely ordained right to rule distant peoples in Africa, Asia and the Americas. They thought they had a special calling to bring civilization and Christianity to what they dismissively regarded as “lesser peoples”. This was despite the fact that some of these peoples - particularly in Asia - had glittering civilisations that far outshone anything in Europe before the 18<sup>th</sup> century. It was the era of Pax Britannica, of District Commissioners - from Nigeria to Malaya - dressing for dinner in remote hilltop stations - and dispensing justice to the natives.

As always, the expression of noble motives often masked naked exploitation. The litany is long and shameful - from the decimation of the native peoples of the Americas; to the slave trade; to the Opium Wars; to the extermination of the entire aboriginal population of Tasmania; and the awful depredations of Leopold II in the Congo.

Racial, gender and class discrimination were regarded as natural and acceptable facets of relationships between human beings.

- It was the era of ‘Jim Crow’ in the United States in terms of which black Americans were subjected to rigid racial segregation in every aspect of their lives.
- Women - who had not yet been given the vote - experienced extreme discrimination in virtually every aspect of their personal and professional lives.
- Oscar Wilde landed in Reading Jail.
- European nations were still riddled with class distinctions manifested in the rigid stratification of society - which strangely enough we now enjoy revisiting in TV series such as Downton Abbey.

Of course, it would be wrong to see imperialism only as a process of exploitation and repression. European powers did bring law, education and modern medicine to the



territories that they ruled. In India the British united the warring states and left the subcontinent with railways, a sound system of law, uncorrupt administration, and cricket.

After World War II attitudes toward imperialism and race began to change quite radically. A number of factors were involved:

- There was universal revulsion at the racial ideology of the Nazis and Japanese that had led to some of the worst atrocities in human history;
- European powers were exhausted and wanted to concentrate their limited resources on rebuilding their economies - rather than on retaining distant, troublesome and unprofitable colonies;
- The United States, the emergent super power, had made it clear in the Atlantic Charter that it wanted Europe to dismantle its colonial empires.

The value systems that western societies had long professed began to catch up with them:

- John Locke's assertion that all mankind were "equal and independent" and Josiah Wedgwood's slogan against slavery "Am I not a Man and a Brother" began to permeate British attitudes and raised doubts regarding the morality of subjugating "men and brothers" of colour in Britain's vast empire.
- In 1776 the founders of the United States declared that they held "these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness." It was bitterly ironic that Thomas Jefferson and many of the signatories of the Declaration of Independence were themselves slave-owners.
- The central themes of the Declaration of Independence were subsequently adopted by French revolutionaries in their call for "Liberté, Égalité et Fraternité".

Despite the continuation of slavery in the United States and the expansion of the British and French Empires during the 19<sup>th</sup> century, these resounding affirmations of equality had been spliced into the DNA of Western civilization.

Following the Second World War they began to emerge in a new norm in international relations and in domestic politics: it was based on the inherent equality of people - regardless of race, religion, class or gender - and on the rejection of unfair discrimination on any of these grounds.

This was one of the most important advances of the 20<sup>th</sup> century.

It also had profound implications for South Africa.

South Africa had come into existence only 35 years before the end of World War II. Like so many other imperial creations in Africa its artificial borders encompassed widely different peoples with divergent interests. One of those peoples - who had already been in the sub-



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continent for 250 years - happened to be white. In keeping with the values of the times, Britain gave them a monopoly of power when it established the Union of South Africa in 1910.

For the next 40 years South Africa developed more or less along the lines of the other Commonwealth dominions. Until the mid-50s, in a continent that was still dominated by European powers, white minority rule in South Africa seemed unexceptional. In a world in which racial discrimination was still shockingly the rule, South Africa's segregation policies elicited little criticism.

However, as the tide of imperialism ebbed from Africa during the 1960s South Africa was left stranded and floundering in the continent's last pool of white rule. Its apartheid policies were an affront to the new international norms of racial equality and non-discrimination.

Newly independent African and Asian countries saw South Africa as a painful reminder of their subjugation by European powers. Western countries - anxious to distance themselves from their own imperialist and racist pasts - vociferously joined in the growing chorus of condemnation.

South Africa presented an irresistible target: the crass segregation of apartheid; the denial of full rights to the black majority; and what was perceived as the dour Calvinism of its leadership contributed to its image as the pre-eminent international bogeyman. It was an image that impelled a generation of young people in the West to join anti-Apartheid movements - despite the fact that by any objective measure there were many countries with far worse human rights and social development records than South Africa.

The wholesale violations of human rights in communist countries often elicited less international criticism than apartheid - perhaps because they were committed in the name of equality.

South Africa was on the wrong side of history.

We were faced with the unacceptable prospect that retention of our right to rule ourselves could be achieved only by denying the black majority's equally valid right to self-determination. We knew that that this course would inevitably lead to a hopeless downward spiral of repression, injustice and conflict.

The world was demanding that we accept one-man, one-vote elections and the inevitable transfer of power to a totally new dispensation - but we had existential fears about this process:

- It would mean the end of our own right to national self-determination - which we had twice defended against the mightiest empire in the world. For us, this evoked the same fears that Israelis would have if they were ever asked to accept a one-man, one-vote election in a broader Middle East election.



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- Secondly, we were deeply concerned about Communist influence in the ANC. Virtually all the members of the ANC's National Executive Committee were also members of the South African Communist Party.
- Thirdly, we were worried about chaos. Most one-man, one-vote elections in the rest of Africa had not resulted in functioning democracies: many had descended into tyranny, corruption and economic collapse.

During the 1980s we searched desperately for solutions. We tried reform: by 1986 we had repealed more than 100 apartheid laws; we had recognised black trade unions and had extended political rights to Coloured and Indian minorities, as well as independent Black homelands.

But by then, the demand was no longer for reform: it was for a transfer of power to a democratically elected Parliament.

At the end of the 1980s history opened a window of opportunity for an inclusive constitutional settlement:

- By 1987 Nelson Mandela had accepted that there would have to be negotiations.
- In 1988 Cuban troops were withdrawn from Angola - which led the next year to the successful implementation of the UN independence plan for Namibia.
- In November, 1989 the fall of the Berlin Wall signaled the collapse of Soviet Communism and the victory of liberal democracy and free market economics.

We realised that the circumstances for successful constitutional negotiations would never again be so propitious. So on 2 February 1990 we leapt through the window of opportunity and commenced negotiations.

One of the central questions was how we would we would entrench the principles of non-racialism, equality and non-discrimination. We all agreed on the need for balanced land reform and for special measures to address the plight of the most disadvantaged South Africans. The Constitution accepted non-racialism as a foundational value. It made provision for the achievement of equality by advancing people who had been disadvantaged by unfair discrimination.

At the same time the Constitution prohibited unfair discrimination against anyone on a number of grounds - including race and gender. It also declared that discrimination was unfair unless it was established that it was fair.

However, in 2004 the Constitutional Court ruled that any discriminatory measures to advance equality - in practice against whites - were automatically fair.

This opened the way to the implementation of the government's policy to achieve equality through demographic representivity - in terms of which all jobs, resources, and land should



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be redistributed according to the percentage of the population represented by South Africa's racial groups.

Although this might superficially appear to be fair, it would in practice, mean that the prospects of individual South Africans would once again be determined not by the content of their character - as Martin Luther King put it - but by the colour of their skin. Prospects for whites would be grim - since they would have to survive within the economic and cultural pen allowed to them by their shrinking share of the population. Only 5% of South Africans below the age of five are white.

Our experience also highlights the underlying tension between equality and freedom. The advancement of the equality of some is often achieved by limiting the freedom of others. In communist countries it required the total abolition of freedom.

Societies are also encountering increasing tensions between cultural and religious freedom on the one hand and norms of non-discrimination on the other. The West is now wrestling with the question of how it should deal with religious and cultural practices that openly clash with the core values of equality, freedom and non-discrimination.

Despite these challenges, the world is a much better place today than it was a hundred years ago. Undoubtedly, one of our greatest achievements has been our acceptance of the equality of all human beings regardless of race, gender, class or religion and the rejection of unfair discrimination on any of these grounds.

Following the remarkable and disturbing developments of 2016 in Britain, Europe and the United States the challenge for all people of goodwill will be to defend and build on these ideals.