

# Celebrating diversity, not just tolerating it

*At a time when the triumph of good over evil is celebrated, it must be remembered that race is not a factor in defining the true worth of an individual*



By Karthy Govender



A woman carries dried clay lamps at her roadside workplace in the northern Indian city of Chandigarh. Earthen lamps are sold in large numbers during Diwali, the annual Hindu festival of lights, when people buy these for decorating their homes. The Diwali festival will be observed tomorrow.

PICTURE: REUTERS

ply because of their race. People using the word must thus be deemed to be associating themselves with these sentiments.

Firstly, comments of this nature are fundamentally at odds with the inclusivity and magnanimity of the Constitution.

Secondly, it signals to the targeted community that it is not deserving of respect and announces to the broader community that it is permissible to disrespect the targeted community.

The targeted community could, as a consequence, feel increasingly marginalised and become inappropriately insular.

This withdrawal, could in turn, be perceived by the broader community as an abdication of the common responsibilities of citizenship that we should all bear. The net result is that the fault lines in society continue to be accentuated as communities pull further apart as opposed to coalescing around shared values.

The apology from the ANC Youth League is part appropriate and part tepid. They properly undertake not to use the word again, but attempt to restrict the sense of egregiousness to some members of our society.

The use of the word is offensive not just to the ultra-sensitive.

Given our history, racist comments are offensive and unacceptable and this falls within the category. It is a pity that the ANC Youth League did not fully appreciate the corrosive effect of the use of the word. Had they done so, the apology would have been unconditional, unequivocal and wholly sincere. An apology only works if the targeted community feels assuaged and reassured by it.

I cannot help wondering how challenging it would be in a mediation to persuade Julius Malema's followers to respect and reasonably accommodate Mr Naidoo's right to celebrate Diwali in accordance with his cultural and religious beliefs after their leader has attached the label "coolie" to this community.

Finally my Deepavali prayer to the Hindu gods is to bestow our society with the wisdom to appreciate that race cannot be the determining factor in defining the true worth and value of an individual.

● Karthy Govender is a law professor at UKZN

**M**ILLIONS of Hindus throughout the world will celebrate Diwali, or Deepavali as it is known in the south of India, tomorrow.

I must confess to never fully understanding the role that thunderous fireworks play in these festivities, but do know that they are integral to it. When I was growing up I heard stories about the immense battles that Lord Ram and the forces of good were meant to have waged against the unsavoury Ravana.

The Diwali festival celebrates these victories and is an acknowledgement that good will ultimately triumph over evil. The lighted lamps are meant to signal gratitude for health, prosperity and wisdom.

This may be a somewhat flimsy justification for the worldwide party that we are witnessing. However, we have learnt not to evaluate cultural and religious beliefs and practices through the prism of reasonableness or through the filter of science. We know to respect cultural liberties because of the subjective importance of these practices to the individuals who engage in them.

An enlightened South African Constitutional Court has held that our Constitution celebrates, and not merely tolerates, diversity.

Years ago I had to mediate a dispute, on behalf of the South African Human Rights Commission, between a South African of Indian descent, whom I shall call Mr Naidoo, and his neighbours.

The parties lived in an upmarket gated community in Gauteng and the neighbours, the overwhelming majority of whom were white, could not accept that they had to put up with the noise and festivities associated with Mr Naidoo celebrating his festival in their gated community.

They stared incredulously at me as I explained that even as private owners and not state actors they had to respect the cultural rights of

the single individual living in their midst.

It occurred to me during the mediation that it must have taken a significant amount of emotional energy for Mr Naidoo to stand his ground and not take his celebration to the "Indian" areas. In my pursuit to remain aloof and objective, I did not tell him that even after the mediation had been concluded, I should have done so.

Fortunately the City of Johannesburg had acted responsibly and had taken the initiative in

stipulating the types of fireworks to be discharged and the window period in the evening during which they could be discharged.

Based on the Constitution and on these regulations we settled the dispute by working out an appropriate compromise as to the nature and amount of fireworks to be discharged and precisely when this was to occur. An important countervailing consideration was the adverse and prejudicial effect of the noise on other residents and particularly on the dogs in the area.

The neighbours moved from a position of intolerance and antagonism only after they understood that they were obliged to reasonably accommodate cultural diversity and the real issue was then how best to accommodate conflicting concerns and interests and not whether these should be accommodated in the first instance.

In this mediation, I used the provisions of the Constitution and the judgments of the court on celebrating diversity to convince the neighbours that they were obliged to

show respect. These judgments generally have a broader radiating effect and its afterglow should inspire us to be better.

Ideally we should internalise the imperative of respecting the dignity of all as we grow as a nation. That is what is intended when the Constitution proudly proclaims that we, the people of South Africa, believe that South Africa belongs to all who live in it, united in our diversity. Racist speech is the antithesis of this sense of belonging and unity in diversity.

The English translation of comments made by Julius Malema when he addressed residents in Thembelishle near Lenasia were to the effect "your children must be allowed to go to school with coolie children". Whatever the anthropological origins of the word, when used in reference to the South African Indian community, it assumes crass racist overtones.

Under the colonial and apartheid order, it was used to convey the belief that people of this race are not worthy of respect sim-