

SA'S CONSTITUTIONAL FUTURE

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South Africa is a country facing a number of problems. It has inherent in its situation and composition factors creating considerable difficulties in the way of a just and harmonious modus vivendi. I should like to draw particular attention to certain of these factors.

In the field of international relations the world at large is becoming increasingly critical of the present order, based on racialistic considerations, in South Africa. I shall not deal here with the whys and wherefores of this approach or whether other countries are entitled to criticize South Africa when their own circumstances are far from perfect. Nor shall I discuss the relative culpability of South Africa compared with many other countries where conditions are probably far worse. The fact is that the world's attention is focused on South Africa, and there is an increasing move afoot to isolate South Africa even further and to take crippling economic measures against it. This is a reality with which we must contend.

It is all very well to adopt the attitude, and we are probably entitled to do so, that we are not beholden to the rest of the world, and may organize our affairs as we see fit, but the words of John Donne, 'No man is an Island, entire of itself; every man is a piece of the Continent, a part of the main', apply equally to a country. We must face up to the fact that we are part of the civilized world and cannot get by without communication, cultural exchanges and trade with other countries.

There is living within South Africa an extremely heterogeneous population. Among these peoples are vast cultural, ethnic and linguistic differences. In particular, in economic terms there is a wide distinction between, at one extreme, wealthy, sophisticated and affluent Caucasians and, at the other, primitive, ill-educated or even uneducated, poverty-stricken blacks. To secure a just and equitable existence for all these different groups of peoples within a single state and common geographical area is a daunting task, and would represent an achievement that has not yet been attained anywhere else in the world or in the world as a whole. In particular, the political ramifications of the coexistence of such widely differing types of peoples in one country are formidable.

In very general terms, the South African

population may be categorized into two groups, namely, the white 'haves', both from an economic and political point of view, and the non-white, predominantly black, 'have-nots', again, both from a political and economic point of view. There is a pronounced numerical imbalance between these two groups, for the 'have-nots' outnumber the 'haves' more than fourfold. The division of the population along these lines creates a potentially very explosive situation, since it combines both racial and economic forces, each of which alone could create serious conflict. When these forces are joined the conflict is magnified. The white haves fear political, cultural and ethnic domination by the black have-nots. They feel that most, if not all, of the considerable achievements that have been attained in this country, largely (although not entirely) through their efforts, will be destroyed if political power is wielded by the black have-nots. On the strength of precipitate black rule in other parts of Africa, there is considerable substance in this fear. The black have-nots, on the other hand, not unjustifiably feel that they are second-class citizens and that they are permanently excluded from political power or any meaningful political rights and, to a large extent, economic well-being in the country of their birth.

This situation is ripe for exploitation, and appears to be in the process of being exploited by international communism. To the black have-nots the doctrine of communism with its concept of shared wealth cannot fail to have an appeal, at least in theory, particularly when the people whom they perceive to be their oppressors are white capitalists who have aligned themselves with the capitalist Western world, the adversaries of communism. This situation has given rise to perennial terrorism, which has served to exacerbate all these other problems.

Is there some constitutional dispensation that will take account of these problems and promote a framework for solving them to bring about a just and harmonious society in South Africa? Could South Africa thus take its rightful place in the family of nations and live there in relative unison?

The basic starting-point and the sine qua non for the counteraction of these problems is the removal of formalized, entrenched racialism and ethnic differentiation as a standard of privilege or rights. Like it or not, the international community and the black have-nots will

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settle for nothing less, and harmony among the peoples of South Africa will not otherwise be achieved. Because the white haves hold political power, this situation cannot come about unless their fears of economic catastrophe and political and cultural domination from the quarter of the black have-nots are assuaged. A delicate balance between these two considerations is required. I believe that the political order outlined below can provide, or go a long way towards providing, the basis for achieving the 'Utopia' that would exist if these problems could be solved.

The crux of any political order is the allocation or granting of voting rights. The political system that I am advocating would require a complete and extensive overhaul of the present constitution. The essence of the suggested system of voting rights is that an individual could be entitled to a multiplicity of votes, depending upon his or her circumstances. Votes would be allocated or awarded on the following basis, in which race or ethnic group would play no role whatsoever:

- ☐ A person who has passed Standard 8 would have one vote. An additional vote would be awarded if he passes matric. A third vote would be allocated on his attainment of a bachelor's degree, or its equivalent, at a university, and a fourth vote for a postgraduate qualification. The total number of votes awarded under this category is therefore four.
- ☐ One vote would be awarded for the ownership, or a proportional share of the ownership, of fixed property with a value of, say, at least R5 000. A second vote would be granted to the person owning property with a value of not less than, say, R50 000, while a third vote would be allocated to a person who owns property with a value of not less than R100 000.
- ☐ One vote would be awarded if a person had an annual income of, say, R10 000. A second vote would be granted to a person who had an annual income of R50 000, while a third vote would be allocated to a person whose income exceeds R100 000 a year.

On this basis, certain individuals could have as many as ten votes, while others would have one or two, or even none, if they do not meet any of the basic requirements. This system is in essence what Mr Ian Smith, the former Prime Minister of what was then Rhodesia, once described as a 'meritocracy'. The values and the allocation of votes according to those

values are for the present purposes intended to be examples to illustrate the principle. A further, scientific analysis of the question might lead to the establishment of different levels. Since inflation will probably always be with us, the values that constitute the different levels would have to be adjusted from time to time, a process that ought to be carried out by an unbiased body. A system for objective valuation of fixed property would have to be devised, and many details worked out.

It follows that the standard of education would have to be constant for all groups of the population. It follows, further, that all obstacles in the way of non-white ownership of property would have to be removed. Racial discrimination in job opportunities and remuneration would have to disappear. There

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should be no obstacles in the way of non-whites wishing to acquire expensive property, and the Group Areas legislation should cease.

Education should be provided on a 'mother-tongue' basis, that is, children should attend schools offering instruction in their mother tongue. This arrangement would probably have the effect of maintaining a degree of separation in living areas, because schools would be placed in areas convenient to the language or population groups that they serve, and would, in turn, create a focal point for the development of residential areas for that group.

The advantages of this system of voting rights are many. From an international point of view, the entrenchment of racial segregation and the allocation of voting rights on a racial basis would cease. There would be nothing to stop a black, a coloured or an Indian person from attaining the full measure of ten votes. The basis and pretext for international victimization of South Africa would fall away. Equal opportunity for political power would be created for all population groups. Immediate political rights would probably be available to a substantial proportion of the black

population (that is, all those who have achieved at least a Standard 8 level of education).

The political advancement of the individual, in the sense of his acquisition of greater voting rights, would depend on educational and economic progress. Black people who acquired greater political rights would be proponents of the concept of capitalism, for the incentives of economic rewards and political power would coincide. Such people would be likely to find the communist or even socialist doctrines progressively unattractive as their economic position and therefore political strengths improved. There would be a strong incentive for have-nots to devote their energies to becoming haves. At the same time, there would be a strong incentive for black people to become educated or better educated. Schools might then become places of

value rather than targets to be burnt down and boycotted. The political advancement of an individual would be retarded if he were to adopt a negative attitude towards education.

To be realistic, for the foreseeable future political power would undoubtedly continue to lie with the white haves. But the facility would have been created for, and the direc-

6 Depolarize politics on racial grounds. 9

tion given to, black have-nots to aspire towards political power by dint of hard work and, through acquiring knowledge and education, to ultimate political dominance. The need and justification for armed struggle to attain political power would disappear or, at least, be lessened. From the point of view of the white haves, their present political power would be assured and undiminished until considerable economic and educational advancement was achieved by black people. If there were to be a transition of power, it would be gradual, and would not occur until the leaders of the rising political power had achieved a high level of education and economic expertise.

One of the main advantages of the system would be that it would depolarize politics on racial grounds. Race, as an issue in South Africa ought in time to disappear or at least be considerably diluted. A black entrepreneur may well find that he has more communion of interest with white entrepreneurs than, for instance, rural blacks. The pursuit of capitalistic goals should supersede race as the dominating factor in South African politics. This would bring about new alignments within the body politic.

Voting rights, allocated according to this system, should be confined to South African citizens. Citizens of the former homelands that are independent states should enjoy the right to elect whether they wish to be citizens of those states or South African citizens participating politically in South Africa according to the new system. If they should choose to remain citizens of their independent national states, and those states choose to continue in existence, a federational or confederal association between those states and South Africa should be sought, much along the lines advocated by the leading white political parties at present.

A further requirement for voting rights must be that the individual must pay income tax to the South African fiscus. Only people making a financial contribution to the running of the country should have a say in its government. Furthermore, the basic information necessary to determine each individual's voting rights ought to be ascertainable from his most recent income tax return.

Censorship

'By the time of the Brink affair in 1974, the Censorship Board had been under attack from a number of quarters, including even some government sectors. To liberal critics, the censorship apparatus had failed — choked by its own blue pencils and red tape. A series of blunders, coupled with a narrow-mindedness that was clearly out of step with the changing moral standards of culturally diverse South Africa, had made the whole system look ridiculous and in full public view at that.

'Time after time publications banned by Jannie Kruger's censors had won a reprieve in the courts. Typical was the case of the country's best-selling magazine, *Scope*, which was banned no fewer than nine times, then unbanned nine times by the courts. According to editors of *Scope*, the bannings began when the magazine ran a series of articles on the evolution of man, which suggested that the biblical story of Adam and Eve may not be the literal truth.

'The censorship apparatus had become an obvious embarrassment to the government. Therefore, after a commission of inquiry considered the problem, a new publications Act was introduced which completely revised the structure and procedure of censorship machinery. The new law sought to improve the image of the censors in three ways: (1) The right of appeal to the courts was removed, thus sparing the censors the embarrassment of having their decisions reversed; (2) The most outspoken critics (English-speaking intellectuals) were wooed by trying to bring them on the review committees (this did not succeed); and finally (3) Insulting or belittling the new appeal board was made an offence — thereby muting public criticism . . .

'In applying the Act, the committees and the Publications Appeal Board are to be guided by, in the words of the Act's preamble, "the constant endeavour of the population of the Republic of South Africa to uphold a Christian view of life". (The opposition in Parliament wanted to add a phrase to this — "with due observance to the individual's freedom of conscience and religion" — but the government refused to accept the addendum.)'

— W A Hachten and C A Giffard *Total Onslaught* (1984) The University of Wisconsin Press. Local edition published by Macmillan South Africa (Publishers) (Pty) Ltd. At 161-2. (With permission.)