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State Formation in Post-Apartheid South Africa

Introduction

The ending of apartheid rule and the transition to democracy in South Africa in April 1994 marked the ending of three centuries of colonial conquest and a century of white minority rule. As the primary instrument for the implementation of apartheid policy, thus, it was not surprising that the state was an immediate target for reform by the new ANC led government. The reforms pursued have aimed to restructure the state in such a way as to make it more legitimate and accountable to the majority of South Africans. Where the previous state had been authoritarian, repressive and oligarchic in nature, the new state is intended to be democratic, developmental and committed to a culture of human rights.

The ANC government also has aspirations of developing a modern state which will be at the forefront of what has enthusiastically been termed an “African Renaissance”. The discussion which follows examines the steps being taken to reach this goal and assesses South Africa’s chances of developing into a state that meets the criteria of Georg Jellinek’s model of the modern European state1.

Comparisons of this nature are, however, inherently problematic. They are problematic not least in that Jellinek’s modern state is an ideal type (and hence is difficult to locate in either time or space), but also in that such comparisons are decidedly normative. Because the modern European state is portrayed as an ideal type, state formation outside of Europe is evaluated in terms of its deviation from that norm. Whilst this is a useful heuristic device, it does run the risk of foreclosing discussion, sui generis, on other models of the state, their genesis and future directions, the homogenising impacts of globalisation notwithstanding.

As a point of departure in analysing the state in post-apartheid South Africa, it is necessary to consider the origins of state formation in the country over the

1 According to Georg Jellinek, Max Weber and others, the modern European state had three primary characteristics: I) a defined territory as its exclusive sphere of rule; II) a sedentary population with permanent membership; III) a sovereign ruling authority, defined internally as a monopoly over the legitimate use of violence and externally as independence from any other authority. To these characteristics, he added a number of further criteria including: a clearly defined border, uniform space, a minimum size, and equal rights for all citizens. Cf. Josef Isensee, Staat I-III, in: Staatslexikon (Freiburg 1989) vol. 5, 133–146.
course of the past century. This is because the form of the current state has been, and continues to be, strongly influenced by its past and there is more continuity with the old regime than many in the new order would care to admit.

State Formation in the Colonial Era

A weakness of many analyses of the state in South Africa and elsewhere in Africa, is the assumption that European models were imported into a political vacuum. In this context, the failure of the European model to take root is often seen as a failure of application, rather than, what it invariably was, a clash of two opposing social and political systems. The state formations which emerged from these clashes invariably reflected outcomes of the struggle. The mythology of apartheid historiography propounded the view that European settlers, at least in the early years, colonised a land which was essentially uninhabited. And yet, this was clearly not so, as virtually the entire sub-continent was inhabited, albeit sparsely, by one or other ethnic group: the Khoi Khoi and Khoi San, in the centre and west, and the Bantu speaking people to the north and east. As a consequence, from the outset, the history of colonialism and white rule in South Africa has been one of constant struggle, first to conquer and then to subjugate the indigenous African population. Indeed, it could be argued, state formation, whether in the British colonies, the Boer republics or subsequently under the apartheid regime was, at least in part, oriented to this goal.

In the subjugation of the indigenous population, moreover, conscious efforts were made by both the Boer settler and British colonial governments to subvert and, in many cases, to eliminate traditional forms of government. This was because traditional leadership structures were seen as focal points for resistance. As a consequence, under British rule, chiefs were supplanted by government appointed headmen, and magistrates became the administrators and legislators of areas ruled by traditional leaders. Although the institution of chieftainship survived this onslaught, and was subsequently reinvented under apartheid, the system as a whole lost much of its coherence and legitimacy, and with that loss were swept aside what could be seen as the indigenous equivalents of civil society.

This is because in pre-colonial times, traditional systems of government were not as autocratic and tyrannical as has sometimes been suggested. Chiefs in most societies in South Africa, for example, did not wield absolute authority and unchallenged power and their influence was mediated by the community at large – in effect, by what could be seen to be civil society broadly defined. Decisions affecting a society were generally made by traditional leaders in consultation with their

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2 This theme is discussed at some length by Mahmood Mamdani in his book Citizen and Subject, Contemporary Africa and the Legacy of Colonialism (London 1996).
4 W. D. Hammond-Tooke, Command or Consensus (Cape Town 1975).
councillors who, generally speaking, represented the interests of the different sectors of the community. People showed their disapproval of unpopular chiefs by "voting with their feet", that is, by moving to areas of more popular leaders. In some regions, unpopular chiefs were deposed or were killed.

Space prohibits detailed discussion of the state systems prevalent in the British colonies and Boer republics of the nineteenth century, other than to say that the former derived from the Westminster model, whilst the latter were hybrid formations which drew loosely from the administrative model of the Dutch East India company, which had administered the Cape prior to British annexation in the early 1800s. Whilst the Boer republics had been established to express the independence of Boer settlers from outside influence, the indirect rule applied in the British colonies served to create a settler consciousness, and settler interests which differed from those of Whitehall.

The imperialist ambitions of the British government which culminated in the Boer war of 1898-1902, also led to the establishment of the Union of South Africa in 1910. The establishment of the Union served to unite the Boer republics and the colonies into one sovereign state. In the process, it also set in motion a train of legislation which effectively excluded blacks from the political process and culminated in the racial separatism of apartheid.

The form of the state adopted for the Union was ostensively based on the Westminster model, but it differed in a number of important respects. In the first instance, the configuration of the state was shaped by a constitution, and one which was not supreme but subject to manipulation and change by an omnipotent sovereign parliament. In the second instance, the state clearly did not treat all its citizens equally, and a battery of laws, commencing with Natives Land Act of 1913, served to discriminate against the indigenous population.

Although the Union brought together the previously antagonistic Boer and English settlers into a government of national unity at the expense of the black population, the arrangement was also seen by segments of the Afrikaner population to prejudice their people politically, culturally and economically. The 1920s and 1930s, consequently, saw the rise of Afrikaner nationalism and, ultimately, the victory of the National Party in the elections of 1948.

The National Party rose to power on the "separate development" or apartheid ticket, which promised to consolidate the domination of the white population and, by implication, to elevate the status of the previously disadvantaged Afrikaner people. With the ascendancy of Verwoerd, widely regarded as the architect of apartheid, to the premiership in 1958, the policy of separate development was subsequently to be portrayed in strongly ideological terms, as the only possible peaceful solution to the country's complex racial problems. Under this rubric, the white "nation" (presented as an undifferentiated unity) would be able to maintain

5 See Dan O'Meara, Volkskapitalisme: Class, Capital and Ideology in the Development of Afrikaner Nationalism 1934 – 1948 (Johannesburg 1983), for a discussion of this development.
its integrity and cultural identity. At the same time, the diverse "nations" which were said to constitute the African population, would be able to progress in their own homelands and at their own pace, free of exploitative and corrupting external forces. Separate development, its protagonists claimed, would be to the ultimate benefit of all South Africa's inhabitants.

From the outset, separate development served to divide African opposition to the state. It did so, in the first instance, by inhibiting any prospect of a class alliance between urban workers and rural peasantry, and subsequently by reinforcing (or manufacturing) ethnic distinctiveness within the African population. By setting urban workers against migrant workers, Zulu against Xhosa and so forth, the bantustan system was able to fragment and dissipate resistance to white rule. This was a process which was reinforced by the fostering of a small collaborative African elite, drawn from the ranks of the bantustan bureaucracies, tribal authority leaders and small traders. Through the services of this elite, whose economic and political existence rested on the maintenance of separate development, the state was able to operate a form of indirect control and repression. Africans were, in effect, policing Africans in the interests of apartheid. The state, moreover was structured primarily to cater for the interests of the white population, including their privileged access to the means of production.

The apartheid policies, thus, were intended to serve a variety of objectives, which included a reinforcement, albeit uneven, of the process of capital accumulation (through the exploitation of cheap black labour), the maintenance of class cohesion within the dominant white population (the Afrikaans speaking population in particular), and ultimately, the control and subordination of the black majority. From the late 1950s until the early 1970s the apartheid formula, for the most part, fulfilled these objectives.

In the mid 1970s, however, conditions changed dramatically and the South African state was confronted by a deep and enduring structural crisis. This crisis, moreover, was multi-faceted and manifested itself economically (through the collapse of the gold price and the flight of foreign capital), politically (through the Soweto uprisings and the resurgence of black opposition) and ideologically (where splits were beginning to emerge in the alignment of class forces within the Afrikaner nationalist movement).

The National Party and the state responded to this threat in varied and contradictory ways. Of immediate concern was whether the crisis could be overcome by more repression alone or whether, in addition, some reform of the apartheid system was necessary. The heated political debates which ensued, served to divide the ruling Afrikaner nationalists and culminated in the creation of a new balance of social forces – determined, at least in part, by considerations of defence (and politically defensible policies) and by the economic interests of big business.

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6 For an exposition of this position see, Republic of South Africa, Multi-National Development in South Africa: The Reality (Pretoria 1974).
In their efforts to restore political stability, thus, the National Party government embarked upon an extensive programme of political and economic restructuring. This represented a series of new initiatives intended to defuse opposition by the masses and to co-opt leading segments of the black population. The state’s approach, which was presented as a “Total Strategy”, put forward a new package of economic, political and ideological policies.

Attempts to Reform the Apartheid State

The Total Strategy set out to restructure the form of apartheid, inter alia by altering the form of the state (towards greater centralisation of authority and militarisation of the administrative decision making structures), by redirecting the relations of production (through changes in labour legislation, stabilisation of the urban African population etc.) and by attempting to reorientate the ideological discourse of the white population. This project entailed the introduction of a wide range of ostensibly reformist policies, including a restructuring of the machinery of the state itself.

In addition to the rapid militarisation of the state in the late 1970s and early 1980s (in response to the escalating guerrilla war in Namibia and growing internal unrest), attempts were made to reduce the role of the state bureaucracy in the social economy. This was necessary from a financial perspective, the country was in the midst of depression, but it was also an attempt, as Greenberg has pointed out, to negate the racial character of the state, to diminish its direct and visible role in the labour market and workplace and to shift responsibility to the private sector. With this ideological construction, he maintained, “the social foundations of the economic and political orders could be broadened”.

Attempts to co-opt segments of the black community into a new political dispensation, in particular, rested heavily on efforts to depoliticise the social order and transmute the racial character of the state. This was because the implementation of apartheid policy in the 1960s and 1970s had necessitated ever increasing levels of state intervention in the social and economic order; this in turn necessitated the expansion of the public sector to implement the diverse policies of separate development. Not only did this process place considerable strain on the state budget, but it effectively politicised most spheres of daily life, and thereby stimulated ever greater demands on the state for popular participation, the provision of services etc.

Efforts were made to circumvent this contradiction by attempting to organise as many sectors of social life as possible through market transactions. This entailed a formal affirmation of the principles of free enterprise, and concerted efforts to transfer responsibility for the provision of social services to the private

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8 Stanley Greenberg, Race and State in Capitalist Development (Johannesburg 1980).
sector. This project to diminish the role of the state in the economy through various privatisation initiatives, however, could not be seen to be operating in strict conformity with the monetarist policies then being followed in the United Kingdom and USA. In part because savings accrued were diverted to police and military budgets and total state expenditure increased rather than decreased during this period.

Coupled with the drive to reduce the role of the state in the social economy, was the attempt to defuse mass opposition by incorporating Africans politically into central state institutions through the mechanism of a federal or confederal system. This initiative was premised on the belief that the only way to achieve "a peaceful transition to normal participation by blacks in the political processes," and at the same time avoid a black majoritarian state imposing radical socialist policies from above, would be to decentralise state power to relatively autonomous local and regional structures.

By diminishing the central state in this fashion, and by constitutionally entrenching various minority rights (including veto rights, the right to property etc.), the proponents of this position argued, a federal system would limit any one group's access to political power. A further and critical condition of this move towards federalism, would be the strengthening of capitalism and the free enterprise ethic and the norms with which they are associated. With a central state essentially devoid of power, a federal system, according to Cobbett et al., "would by default leave intact the foundations of the economy and relations of production, and expose only marginal or localised elements of the economic system to modification." At the same time, they maintained, such a dispensation would not require the legal entrenchment of ethnicity, since apartheid had ensured that racial and ethnic groups were already separate.

Although under this system whites would no longer exercise absolute political power, they would nevertheless continue to exert major influence through their domination of the economic sphere. For the majority of whites, the advocates of this position calculated, life under a federal government would not differ fundamentally from the present.

It is evident that the introduction of a federal system, (in as much as this goal then constituted a central tenet of National Party policy), was always intended to be a phased and gradualistic process. Implicit in the proposals, however, was the abandonment of the political and territorial premises of apartheid and the eventual

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11 *Cobbett et al.*, (note 9) 158.
reincorporation of the bantustans into a single national state. The basis of this system was conceived in terms of a regional development strategy formalised at the Good Hope Conference held in Cape Town in 1981. Provided there was a reasonable economic balance between the units, theorists asserted, the regions demarcated could form the building blocks for a future federal system\textsuperscript{13}.

Thus, although the 1980s were the most violent and repressive years of apartheid rule and the militarisation of the state had reached an advanced stage, it was clear to many strategists in the government and the state, that apartheid was unsustainable in the longer run and alternative solutions had to be found. In that respect, although F. W. De Klerk, who took over as president from P. W. Botha in 1988, is credited with the ending of apartheid in 1994, the process, as indicated, had begun more than a decade earlier at the beginning of the 1980s.

The ending of apartheid rule and the transition to democracy thus had several important features. It was negotiated from above, it insured the continuity of the free market system and, by implication, it secured the economic standing of the majority of whites. Working class whites, small farmers and business people, it must be stated, hitherto protected by apartheid privileges, suffered serious economic reversals, first with the attempted reforms of the 1980s, and subsequently with the transition to democracy. It was from the ranks of this class that the white right wing drew its recruits in the 1980s and early 1990s.

\textbf{The Apartheid State – An Assessment}

An assessment of the apartheid state prior to its demise indicates that despite the National Party government’s aspirations to first world status, South Africa could not, in any sense, be considered to be a modern state when measured against the criteria established by Jellinek. Thus although the sovereignty of the state was recognised, de facto, both domestically and internationally, its legitimacy was fiercely contested by the majority of South Africans and increasingly, as more and more sanctions were imposed, by foreign states.

The institutionalisation of apartheid, by definition, implied the fragmentation of the country geographically and politically. The pursuit of racial segregation and the implementation of the homeland policy in particular, implied that there was no legal uniformity in civil rights and entitlements and neither in access to employment or to state resources, in that all of these were regulated according to race and ethnicity. To that extent, the space economy of apartheid was anything but uniform, and the homelands constituted enclaves with varying degrees of autonomy from Pretoria. The size and composition of those homelands deemed to be either “independent” or “self-governing” states, likewise was such that

\textsuperscript{13} Jan Lombard, The role of development banking in the regional distribution of economic growth, in: Vuuren, Kriek, (note 10) 321.
they could not be considered viable economic or social entities in any sovereign sense. The nominally self-governing KwaZulu homeland, for example, comprised more that forty separate parts scattered throughout the then province of Natal, to the extent that their exact number and boundaries were always contested.

The state’s attempts to grant independence to a number of the homelands, represented, in effect an undermining of its own sovereignty. Thus although the “independent” homelands, have been seen by political commentators as vassal states and as the puppets of Pretoria, they did, in the early days at least, exercise a considerable degree of political autonomy, shaping their own internal laws, if not their economies.

But while the internal borders of the state were extensively redrawn to accommodate the needs of racial segregation, the South African state had always adopted an ambivalent attitude towards its own northern borders, and displayed scant regard for the sovereignty of neighbouring states. Indeed South Africa had long considered its erstwhile colony Namibia as an integral part of its territory. Thus, “the border”, in South African military parlance, always referred to the northern border of Namibia, and in the protracted war against the SWAPO liberation forces, it effectively established its forward defensive position in southern Angola. In its attempts to destabilise the region, moreover, South Africa’s military forces conducted frequent raids into the neighbouring states of Lesotho, Zimbabwe, Mozambique, Zambia, Angola and Botswana.

Although the growth in the military in the 1970s and 1980s saw increasing numbers of blacks being drawn into the defence forces, whites maintained a monopoly on the use of arms. Despite the fact that white households were amongst the most heavily armed in the world, it was illegal for blacks to own guns until well into the 1980s.

It is also evident that as splits within the Afrikaner nationalist movement developed, so did rifts between different interest groups within the state itself. Thus, not all segments of the state bureaucracy worked together to promote the process of reform, and as evidence is increasingly coming to the fore in the Truth and Reconciliation Commission, elements in the police and defence force were actively attempting to undermine and reverse the reformist policies of the state.

Despite the size of the South African defence machine, and despite the extensive use of violent repression, the apartheid state was not able, in the 1970s and 1980s, to exercise a monopoly over the use of force. The armed resistance of guerilla forces and sporadic mass violence, in fact, rendered many black areas ungovernable in the latter stages of apartheid rule.

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The Formation of the Post-Apartheid State

The challenge facing the new government, has been to dismantle the apartheid state and reconstruct a state capable of accommodating the new social and political realities of our time. One of the most controversial issues in the debate that preceded the drafting of the Interim Constitution prior to the 1994 elections, however, was whether the South African state should be unitary or federal in nature. This reflected a tension between the need to devolve power to the provinces and the need to maintain central control. While the devolution of power was seen by the ANC alliance as being of importance in taking democracy to the people, there was also an expressed fear that the devolution of too much authority to the provinces could lead to a situation where the national government’s efforts to overcome the legacy of apartheid and to build a new national identity would be thwarted by political intransigence at lower levels. Since then, experiences in the Province of the Western Cape where the ruling National Party attempted to gerrymander municipal boundaries to exclude black communities, and in KwaZulu Natal where the provincial government expressed their intention to establish a Zulu kingdom, have reinforced these fears.

The final Constitution stipulates that the “Republic of South Africa is one, sovereign, democratic state”. The achievement of this status, of necessity, required the reintegration of the ten ethnic homelands, each with its own administration structure, into a unified state bureaucracy. Despite this, however, the South African state reflects many of the characteristics of a federal state and the relations between centre and periphery are, in some instances, no different from those in many federations. Added to this, the demand for greater autonomy at the provincial level, and for self government at other levels, remains a source of discontent which carries with it the potential for political and social instability.

At present, debate continues within the ANC alliance as to whether the role of provinces should be diminished, and whether a measure of power should be re-centralised in the national government. At one level argument is driven by the fact that a number of the provinces lack the administrative capacity to deliver effective services\(^\text{15}\), but it also reflects concern that the state is not sufficiently strong to effect necessary changes in the political economy.

There is also considerable debate over the role of the state in the development of the economy and whether it should play a strongly interventionist role, or an enabling one in line with the dictates of the IMF and World Bank. These two perspectives, evident in the Reconstruction and Development Programme (which was the ANC’s initial election charter) or the Growth, Employment and Redistribution (GEAR) macro-economic framework\(^\text{16}\), reflect the different interests...
within the ANC’s national alliance, which spans the South African Communist Party, the Congress of South African Trade Unions (COSATU), the new black middle class as well as emerging black capitalists. It is, however, recognised in policy documents that the reform of the state, being effected as it is from above, will take a number of years to achieve.

The New South Africa – A Modern State?

According to the new constitution, South Africa is a sovereign unitary state. With the granting of independence to Namibia in 1989, moreover, had come an end to the defence force’s frequent military incursions into neighbouring states; in view of this, the country can now be said to have clearly defined borders with uniform space. This uniformity, however, is limited as there is little homogeneity in the composition of the country’s people. This is a legacy of the apartheid state which, as indicated, pursued concerted and persistent programmes to reinforce racial and ethnic distinctions as part of a policy of divide and rule.

The new Constitution recognises the equality of all South Africans and has entrenched a number of non-derogable rights in its Bill of Rights, including the right to human dignity and the right to equality irrespective of race, colour, ethnicity, sex, religion or language. However, while the rights of the individual are inviolable in this context, the constitution also recognises group rights and ethnic diversity. Thus, somewhat incongruously, the constitution makes provision for eleven official languages, although English and Afrikaans remain the most prevalently used and the former is increasingly becoming the language of official discourse. The constitution also asserts that:

Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community, a) to enjoy their culture, practice their religion and use their language, and b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

This clause represents considerably more than the right to freedom of association, which is standard in most modern constitutions, and has been interpreted to mean that individuals have the right to be recognised by social identities over and above their South African nationality. It is on the basis of this clause, for example, that the Inkatha Freedom Party is pressing its claim for a Zulu Kingdom in the province of KwaZulu Natal. It is also on the basis of this clause that the Freedom...
Front and other Afrikaner political groupings are asserting their rights to establish an Afrikaner “Volkstaat”.

It must, however, be stated that the ANC government does not accept the latitude of these interpretations, and insists that there can only be one national identity. The idea of “many nations in one state”, nevertheless, is a pervasive one and is reinforced by popularised notions of a “rainbow nation”, by the airtime allowed to different linguistic groups on television and radio, and in the right which they have for their children to be taught in the vernacular in the early grades of school.

The constitution also makes provision for the recognition of traditional leadership structures, subject to local demand, although their precise roles and responsibilities are still fiercely contested politically. Although appeals have been made to traditional leaders to maintain political neutrality and to focus on cultural issues, this has been rejected by the Congress of Traditional Leaders of South Africa (CONTRALESA) as too limiting of their role. It is thus apparent that some traditional leaders are asserting the political rights of their constituencies (at least at the local level) along ethnic grounds.

It is of interest to note that while the new government does subscribe to the idea of a nation state and the oneness of the South African people, this objective seems at times to be secondary to the goal of promoting greater participation by blacks in the economy. Indeed, greater equity is seen as a precondition for the establishment of a strong national identity. This view is not without foundation. Data provided by the 1997 UNDP Human Development Report reveals that South Africa is one of the most unequal societies in the world.

Greater social equity is seen as essential to improve the quality of living and life chances of the majority of blacks, but it is also seen as important in preventing the threat of social unrest and political instability fomented by populist movements and other groupings opposed to the government’s policies.

The heterogeneity of South African society is also recognised in the re-configuration of the state, which as indicated, assigns considerably more authority to the provinces than in the past. This includes the right to draw up a provincial constitution, although this may not be in conflict with the national constitution. To date the National Party dominated Province of the Western Cape and the IFP led KwaZulu Natal have developed their own provincial constitutions.

The policy of “Affirmative Action”, which actively seeks to redress inequalities of the past in the workplace, is a further limiting factor to the development of equity in terms of the European model. In April 1994, when the new government took up office, 94 per cent of the top management of the public sector were white.

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19 The Bushbuck Ridge boundary disputes between the Northern and Mpumalanga provinces are illustrative of this.
20 The top 10 per cent of the population account for 47.3 per cent of total income, while the bottom 10 per cent account for just 1.4 per cent of income, and the bottom 20 per cent 3.3 per cent. The Gini coefficient, which is taken as one of the more accurate indices of inequality reveals a score of 58.4 (where a value of 0 equals perfectly equitable distribution and a value of 100 equals perfect inequality). (UNDP, Human Development Report (New York 1997) 222.
and the majority of these were men\textsuperscript{21}. Since then, there have been conscious efforts to redress racial and gender biases in recruitment policies, and preference is given to black people when public sector posts are filled.

The government's position at present is that complete equality in recruitment and promotion policies at this stage in the life cycle of democratic South Africa, would simply reproduce past inequalities and reinforce the privileges of the white minority. This is because many whites have received better education and training and hence have a competitive edge over their black colleagues. A public sector more representative of the national population is also felt to be essential if the state bureaucracy is to be accepted as legitimate by the society at large.

The Affirmative Action programme has achieved some success, and recent statistics reveal that white managers now comprise less than 50 per cent of the total. However, the policy has proven difficult to implement, in part because no white officials may be replaced against their will (a condition of the so-called "Sunset Clause" which was agreed to in the negotiations which preceded the ending of apartheid rule). Instead, the offering of voluntary severance packages to senior officials has been costly, and often the most experienced and skilled individuals have left first, precipitating skills shortages. A further problem relates to the fact that there is, at present, a skills shortage amongst black people in a number of key sectors, including financial management, economic planning and information technology.

The policy of Affirmative Action has not been without its critics, particularly amongst the previously advantaged white population who protest at what they see as reverse discrimination. It has also been criticised by trade unions and others who claim that the policy is privileging a small black elite and is not addressing the fundamental determinants of inequality in South Africa society, especially the restricted access which blacks have to productive resources.

The government's attempts to promote greater employment equity in the private sector, has proven to be even more problematic, and is seen by some as threatening the very basis of free market competition. The recently promulgated Employment Equity Bill, for example, in addition to prescribing minimum wages, also requires companies with more than 50 employees to submit work plans to the Department of Labour specifying what steps they will take to promote greater equity in the work place; a failure to prepare plans and to implement them over a period of time, will result in heavy fines. In addition to the extreme difficulties which the Department of Labour will face in monitoring the performances of thousands of companies, the policy is seen to impinge on companies rights to recruit the best employees available. It has also be seen as a disincentive to small but expanding companies to employ more than 50 workers.

A further legacy of apartheid and a further instance of heterogeneity, relates to the unequal payment of taxes by all citizens. This is the outcome of a number of

factors including unemployment and extreme poverty, and the fact that many people work in the unregulated informal sector, where financial accounting systems are often non-existent. It also relates to a culture of non-payment, which again is a legacy of the struggle against apartheid (when rent and rates boycotts were part of a strategy to make the country ungovernable) and which is endemic in many urban communities. Throughout South Africa local governments are struggling to raise taxes to cover the cost of basic utilities, and many are on the brink of bankruptcy and some, indeed, have become bankrupt. Not only does this uneven tax basis threaten the viability of local governments (in particular) but it is also a source of discontent amongst those who do pay: predominantly the white and black elites.

As things stand, disparities in wealth and in access to basic resources present a constraint to the development of a national identity. Attempts have been made to engineer a greater sense of common purpose and national unity through the media (the theme of the state television broadcaster, for example, is “Simunye – We are One”), but it is as if the government is aware that the gulf is too wide to be addressed through mere rhetoric, and that its credibility will be threatened if it pushes this concept too far too fast. Even efforts by President Mandela, who has become an icon to most South Africans, to promote national reconciliation have been criticised by some African people as being too conciliatory and too forgiving of the past.

It has been left to sports such as rugby, soccer (both of which have achieved international successes since 1994) and athletics to forge some sense of national unity. This, however, has been ephemeral (interest wanes once teams start losing) and the great disparities in wealth inherited from apartheid, in the short run at least, present serious constraints to the development of a national identity.

South Africa in some sense would seem to require some form of external impetus to accelerate the process of nation building. Herbst, in a comparative study of state formation in Africa and Europe, has stressed the importance of warfare both in allowing states to implement tax systems and to generate a sense of national identity and purpose against a common foe. Although South Africa had been involved in a protracted counter-insurgency war against the SWAPO liberationist forces in Namibia and Angola, this endeavour lacked any legitimacy amongst black South Africans. In the latter stages, it also became increasingly unpopular amongst white South Africans and had all the hall marks of the American population’s rejection of the war in Vietnam.

This observation is not intended to suggest that South Africa is in need of a war – to the contrary, the entire sub-region is in desperate need of peace. Rather, it is to highlight the difficulties which the government faces in trying simultaneously to engineer national unity and to redress major socio-economic imbalances in the society.

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22 The Municipality of Butterworth in the Province of the Eastern Cape is a case in point.
Although, there is no armed resistance to the state at present, it might be argued that the high crime rate, the rule of gangs in urban townships and sporadic internecine wars in the rural areas, suggest that the state does yet have a monopoly over the use of violence. The control of crime, in fact, has become a major social issue and has given rise to vigilantism as frustrated citizens attempt to take the law into their own hands. Given the high incidence of crime in many states recognised to be “modern”, however, the current incidence of crime in South Africa should probably not be factored into a comparative analysis of this nature.

Conclusion

On the evidence presented above, can the new South Africa be considered to be modern in the strict sense of the European model defined by Jellinek? The answer at this stage in the life cycle of the new state would have to be “no”, and, furthermore, it should probably not aspire to this status in the short run. In the medium to long term future, however, a number of factors will likely drive it conform with western (rather than specifically European) models of the state. Amongst these are its aspirations to compete in the global economy and the influence of a strong modernising elite. Conversely, the threats to this development would appear to come from an inability of the part of the state to meet the aspirations of the poor masses, and the rise of populist demagogues who care little for the imperatives of world markets.