

SOUTH AFRICA: A SOCIO-POLITICAL ANALYSIS

Mandla Seleokane*

INTRODUCTION

I am going to share some thoughts on the political developments in South Africa in relation to what the liberation organisations have been saying in years past. That would entail some investigation into the historical positions held by liberation organisations, and enquiring whether the political shifts that we witness in South Africa today are in the direction that was pointed out by these organisations in years past. I think that it would be rather pretentious for me to purport to define liberation. The very best that I can do is state what our various organisations have said they understand by that term.

SOME EARLY CONCEPTIONS

Our history since 1652 is fairly well-known. Initially the aim of the African people was to fight off the invasion of their shores by foreigners. To that end they did what they could to try and "drive the white man back to the sea". They failed.

The next phase of struggle was geared at securing a place for black people in the establishment on a basis more or less equal with whites. In other words, the new order was accepted by the African people, but they took issue with the fact that they were treated unfairly within the framework of that new order. Thus, for instance, SN Mvambo stated in 1883:

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We yield to no one in our anxiety to see the Native people standing well with the government. Indeed, we would do all to assist Government in getting in the money owing (in taxes - MS). But is it not dealing with the people too harshly to threaten them with summary seizure of stock if there be no visible improvement during the current month? (Karis and Carter 1972:12)

A number of petitions which were sent to the British Crown during this period would also bear this out. One example should suffice:

... We your Majesty's most loyal and dutiful subjects the Fingos ...desire to approach your most gracious Majesty. We consider it the highest honour to be under your Majesty's benign sway and the subjects of a Government distinguished for justice and mercy and all temporal and spiritual privileges.... Thirty three years ago Parliamentary Government was conceded to the Colony and a fairly low Franchise was at last agreed upon ... and for the last thirty three years we have been allowed the great privilege of recording our votes at Parliamentary elections on the same footing as our fellow countrymen of European extraction but during the present Session of the Cape Parliament the House of the Legislative Assembly has already a Bill that will curtail nay in most cases take away our privileges under the former just and politic measure. We therefore pray your most Excellent Majesty that in the event of the said measure ... passing both houses of Parliament Your Majesty will exercise Your Royal Prerogative in our favour. (Carter 1972:15)

This phase of struggle was carried into the 20th century, as can be gleaned from, *inter alia*, "Questions Affecting the Natives and Coloured People Resident in British South Africa". The document

was issued by the South African Native Congress in 1903, and directed to Joseph Chamberlain. The document expresses in graphic detail "the loyalty of the Native people of South Africa" to the British Crown; their acceptance of British Administration, including the Judiciary; and then raises complaints about racial discrimination. (Carter 1972:18-29)

If this phase was characterised by an acceptance of the new order, it was also characterised by efforts to build African solidarity. Again this is clear from Mvambo's statement in explaining the purpose of Imbumba:

Anyone looking at things as they are, could even go as far as to say it was a great mistake to bring so many church denominations to the Black people. For the Black man makes the fatal mistake of thinking that if he is an Anglican, he has nothing to do with anything suggested by a Wesleyan, and the Wesleyan also thinks so, and so does the Presbyterian. Imbumba must make sure that all these three are represented at the conference, for we must be united on political matters. In fighting for national rights, we must fight together. Although they look as if they belong to various churches, the White people are solidly united when it comes to matters of this nature. We Blacks think that these churches are hostile to one another, and in that way we lose our political rights. (Carter 1972:12)

THE ANC

The eloquent expressions of loyalty to the British Crown really did not yield the fruit required. On the contrary, one oppressive measure followed another until the Africans were virtually without any rights.

In 1909 there was a white "national" convention which led to the establishment of the Union of South Africa. The Union of South Africa Constitution Act withheld political rights from the Africans.

In 1913 Union Parliament passed **The Land Act**, which confined Africans to 7.3% of the total land area of South Africa.

Against the background of the degenerating political position of the Africans, Pixley Seme agitated for the founding of a national political organisation, which would include the then protectorates of Bechuanaland, Basotholand and Swaziland. But still Seme's view was that such an organisation should:

provide a forum for all African view-points, forcefully present African grievances to the new government and to white public opinion, and serve as a new rallying point for political pressure on behalf of Africans throughout South Africa. (Carter 1972:61)

In 1912 the South African Native National Congress was founded in Bloemfontein. This organisation changed its name in 1923 to become the African National Congress.

I do not think that it is necessary to trace the ANC's political positions from 1912 on: it is enough to state that the organisation took forward the tradition of its predecessors, and also sent petitions to the British Crown. For the purposes of our present enquiry, the crucial thing would be to state the political positions contained in the Freedom Charter (1955), which are:

1. The people shall govern
2. All national groups shall have equal rights
3. The people shall share in the country's wealth
4. The land shall be shared among those who work it
5. All shall be equal before the law
6. All shall enjoy equal human rights
7. There shall be work and security
8. The doors of learning and of culture shall be opened
9. There shall be houses, security and comfort
10. There shall be peace and friendship. (Varsity [UCT] Vol 43 No 8: 01 August 1984)

In reading these statements one has to be alive to the fact that the

Freedom Charter was a compromise document. Since, however, the purpose is not to dissect the organisation, but merely to glean its views on liberation, and since the ANC was and remains the most important organisation subscribing to the Freedom Charter, I think it safe to use the document for the purpose I have indicated.

If it was intended that it should be possible to glean the ANC's views on liberation from the Freedom Charter, then we should say the ANC equated liberation with the acquisition of broad democratic rights. In that case, they did not stray too far from the views of their predecessors.

Yet there are in my view at least two respects in which they did so stray. Under the statement **The people shall share in the country's wealth**, they state; **inter alia**,

The national wealth of our country, the heritage of all South Africans, shall be restored to the people; The mineral wealth beneath the soil, the Banks and monopoly industry shall be transferred to the ownership of the people as a whole; All other industry and trade shall be controlled to assist the well-being of the people.... (ibid)

Under the statement **There shall be peace and friendship**, they state: "South Africa shall be a fully independent state...." (ibid.) Proceeding from the standpoint of the Freedom Charter, therefore, one should say that the ANC shifted at least in two significant respects from the views of their fore-runners. A fully sovereign South Africa was not on the agenda of the African organisations which existed prior to the ANC. None of the African organisations before the ANC hinted the possibility of elements of a socialist dispensation. I say this being fully aware of Nelson Mandela's statement at the Rivonia Trial:

It is true that in demanding the nationalisation of the banks, the gold mines and the land, the [Freedom] Charter strikes a fatal blow at the financial and gold mining monopolies and the farming interests. The breaking up and

democratisation of these monopolies will open up fresh fields for the development of a prosperous non-European bourgeois class. For the first time in the history of this country, the non-European bourgeoisie will have the opportunity to own in their own name ... trade and private enterprise will boom and flourish as never before. (Arise! Vukani! Vol 5 1985:7)

THE SACP

Although the South African Communist Party has a very long history, I do not propose to discuss it in detail. I state merely that the Party strives towards a socialist order. It reasons that, in the current phase, it should channel its efforts in the struggle for broad national democratic rights, and that once a national democracy is in place, it will be able to direct its efforts towards working for a socialist order. At that stage it might even be able to part company with the ANC. For now, it does what it can within a Congress Alliance to promote the views contained in the Freedom Charter.

THE NEUM

The Non-European Unity Movement came into existence in 1944, and adopted the 10-Point Programme which demands:

1. The franchise ... over the age of 21
2. Compulsory, free and uniform education for all children up to the age of 16
3. Inviolability of person, of one's house and privacy
4. Freedom of speech, press, meetings and association
5. Freedom of movement and occupation
6. Full equality of rights for all citizens without distinction of race, colour and sex
7. Revision of the land question in accordance with the above
8. Revision of the civil and the criminal code...
9. Revision of the system of taxation ...
10. Revision of the labour legislation and its application to the mines and agriculture. (A Declaration to the People of South

Africa from the Non-European Unity Movement, 1951:15)

The NEUM programme states

The aim of the Non-European Unity Movement is the liquidation of the national oppression on the Non-Europeans in South Africa, that is, the removal of all disabilities and the restrictions based on grounds of race and colour, and the acquisition by the Non-Europeans of all those rights which are at present enjoyed by the European population. (S Mokone 1982:34)

Recently the New Unity Movement (NUM) was launched. It re-adopted the 10-Point Programme with a few changes which, in my view, are not really substantive. Therefore I do not discuss it as a separate organisation for programmatic purposes, there being no substantial difference.

THE PAC

The Pan Africanist Congress launched itself in 1959. The platform on which it launched itself was the 1949 Programme of Action, which, it charged, the ANC had abandoned. That Programme stated:

... [W]e claim and will continue to fight for the political rights ... on page 8 of our Bill of Rights.... (Carter 1973:337)

Now, the Bill of Rights referred to was adopted by the ANC Annual Conference on 16 December 1943, and demanded:

1. The abolition of political discrimination based on race...
2. The right to equal justice in the courts of law
3. Freedom of residence and the repeal of laws [that hinder such freedom]...
4. Freedom of movement...
5. ... freedom of the press
6. ... sanctity or inviolability of the home...
7. The right to own, buy, hire or lease and occupy land...

8. The right to engage in all forms of lawful occupations, trades and professions...
9. The right to be appointed and to hold office in the civil service and in all branches of public employment...
10. The right of every child to free and compulsory education...
11. Equality of treatment with any other section of the population in the State social services.... (Carter 1973:217-8)

The 1949 Programme proceeds and lists the things which need to be done in order to achieve the rights referred to above, which include

The establishment of commercial, industrial, transport and other enterprises in both urban and rural areas. (*ibid.* 338)

It concludes:

Congress realises that ultimately the people will be brought together by inspired leadership, under the banner of African Nationalism with courage and determination. (*ibid.* 339)

THE BCM

The Black Consciousness Movement was launched in South Africa in the form of the South African Student Organisation in 1969. The BCM produced the SASO Policy Manifesto and the 16-Point Programme. But the most comprehensive political statement to be produced by the BCM was the Black People's Convention's **Towards a Free Azania - Projection: Future State**. It was adopted at King Williams Town in 1975. In it, the BPC committed itself to:

1. Establish a democratic state in Azania
2. Introduce a just legal system
3. Build a strong, socialist, self-reliant economy
4. Ensure security and peace of the nation
5. Safeguard social rights
6. Develop culture, education and technology
7. Adequately provide for the health and welfare of all
8. Provide adequate housing

9. Follow a foreign policy that respects national independence and international friendship. (BCM[A]: Basic Documents:13-16)

The Azanian People's Manifesto, to which AZAPO is a signatory, states:

Our struggle for national liberation is directed against the historically evolved system of racism and capitalism which holds the people of Azania in bondage for the benefit of the small minority of the population, i.e. the capitalists and their allies, the white workers and the reactionary sections of the middle classes. The struggle against apartheid, therefore, is no more than the point of departure for our liberatory efforts.

WOSA

The Workers' Organisation for Socialist Action was born in 1991. It is an amalgam of a number of local/regional organisations, which had been constituents of the National Forum. One must therefore suppose that WOSA would still see the Azanian People's Manifesto as their guiding document. Their founding conference released a statement which said, *inter alia*:

Those who are prepared to settle for less than socialism are ... accusing WOSA of demanding too much. They say we are ultra-left. We remind them that they were asking for the same things a few years ago. Now they say times have changed and socialism is not on the agenda for the next ten years or more. We say socialism will only ever be on the agenda if we are prepared to struggle to put it there. Socialism won't ever come on its own and conditions for its coming will never be perfect. They say the government and the bosses will never agree to the changes - and we say OF COURSE NOT, and nor will we be asking their permission to continue the

struggle. They say the people are not ready to struggle for these changes. The people, they say, want peace and security, not socialism. And we ... say **YOU ARE WRONG**. Only socialism can guarantee peace and security against the ravages of capitalism. (WOSA, **The National Situation**, 1991:10)

REFLECTIONS ON THESE POSITIONS

It is quite obvious that one cannot hope to obtain a single understanding of what the business of liberation is all about: that would be very good for our efforts to build unity! Rather, we should aim to establish some common thread in the various positions articulated by our organisations. If we succeed in that, we can begin to enquire to what extent the political shifts we see are in the direction pointed by our organisations.

For all the differences that exist among our organisations, there are important points of similarity.

A. From the moment Africans accepted that it was no longer possible or desirable to "drive the white man back to the sea", all our liberatory efforts have sought to acquire full political rights for all. This fight is variously expressed as the fight for the extension of the franchise; the fight for one-man/person-one-vote; or the fight for majority rule. Whatever the formulation, the end product should be the ability of all South Africans, once they reach a certain age, to have an equal right to vote for the government, and to be voted into government.

B. All our organisations have sought to correct the imbalance in ownership of the land. This concern has been expressed variously as the need to revise the land question; the need to reconquer the land; the need that the land be shared by those who work it; and the need for ownership of the land to vest in the state.

C. All our organisations have expressed the need for:

C.1 an equitable spread of the wealth of South Africa;

- C.2 free and compulsory education for all up to a certain age;
- C.3 adequate and safe/inviolable housing;
- C.4 Equality in rights; and
- C.5 Freedom of speech, of association and of the press.

D. To varying degrees - and maybe in varied senses - our organisations have seen the need for socialism.

Even though I present these points as a common thread, our organisations have some very serious differences around them. The Land Question, for example, is one which is dealt with by all our organisations. Significantly, however, it is one of the questions on which the ANC split. It is one of the questions on which the Non-European Unity Movement split. For the purposes of the present enquiry, however, those very serious differences are not relevant. The question is simply whether we are approaching the concerns raised, howsoever any liberation organisation perceives them. But before dealing with that, I propose to outline briefly the build-up to the events we have to analyze.

THE BUILD-UP

The processes leading to negotiations in South Africa are very complex. The first hint we got that negotiations might well be the way forward was when Kenneth Kaunda declared that South Africa was not involved in a liberation struggle, but a civil rights struggle. That was in 1984. In the same year Samora Machel signed the **Nkomati Accord** with the South African government. As a result, the ANC lost its military bases in Mozambique. Then the USSR arrived at the conclusion that socialism in South Africa was not in sight for at least a hundred years, and that national liberation might - just might - come about after at least ten years. In Concharov's words:

The emotion of the past three years has given birth to hopes of a quick victory, but it will not be very quick. Maybe ten years, I say not less than ten years. Yes, I believe that in the end South Africa will become socialist, maybe not in

25 year but in a century... (WIP 48:7)

That was in 1987. At the time the USSR was busy with **glasnost** and **perestroika**. So, we inferred, the USSR was going to re-adjust its priorities, and that would quite clearly have far reaching implications for the struggle in South Africa. Indeed, when Gennady Gerasimov (USSR Foreign Ministry spokesman) was asked about the USSR's position on the armed struggle in South Africa, he responded: "What armed struggle?" (Alex Callinicos, **Can South Africa be Reformed**, p 19) Moscow apparently started seeing South Africa in a different light. Boris Asoyan, who stood in for the USSR ambassador in Lesotho, is quoted (in 1988 already) to have stated:

It should ... be borne in mind that during the past decade the living standard of black South Africans has increased far more than in the rest of Africa and many other countries in the third world. (**South Africa International** Vol 21 No 3:167)

Gemma Porzgen writes that the USSR was apprehensive about the 1986 "riots" which, in their view, "might damage the highly developed South African economy". (*ibid.*)

Then there was the Namibian question. For years South Africa had linked its withdrawal from Namibia to the withdrawal of the Cuban troops in Angola. The strategic thinking behind this linkage was clear: the SADF did not wish to be hindered by the Stalinorgan when it conducted across-the-border raids into Angola in pursuit of the ANC. With the Cubans gone, the borders of Angola would be more vulnerable should that country continue to host Umkhonto We Sizwe guerillas. And so the ANC had to dismantle its camps in Angola.

It seems fairly clear that the combined effect of these events was to construct the possibility of armed struggle, and so increase the incentives for negotiating. The ANC commented:

The question of whether or not the ANC can participate in a negotiated settlement may thus depend, not only on our own strategic perspective, but on various other factors, including pressures that may be brought to bear, resulting in our walking along a path that is not necessarily the one we would have chosen.... Walking along a forced path is not inevitable, nor even solely an objective development. It depends partly on the organisational groundwork already done by the revolutionary movement, which may be forced to walk to a negotiated settlement only because it has not sufficiently consolidated the forces of victory during its march to armed insurrection. (**Negotiations and People's Power, in Discussion Papers for the Conference for a Democratic Future**, issued by MDM, not dated and not paginated).

As the possibilities of military action were squeezed out, a number of people and organisations held discussions with the ANC in order to promote the possibilities of negotiations. Among these were the efforts of the Commonwealth Eminent Persons Group in 1986. The EPG's brief was to "devise a 'Possible Negotiating Concept' that could bring the regime and its opponents to the conference table". (Callinicos:16) The EPG found that "the ANC was more accommodating than Botha". (ibid.) Meanwhile Nelson Mandela had the now famous four o'clock tea with Botha at Tuynhuis, after which he (Botha) remarked that he had found Mandela an interesting person. It has since transpired that the afternoon tea was meant to provide an occasion to explore the possibility of negotiations.

The ANC held a consultation with the Mass Democratic Movement in Lusaka in June, 1989 in order to map out the way forward. That consultation agreed: "Our struggle is to take control of the process and ensure that negotiations, should they come about, are genuine and serious." (Callinicos:19) In August 1989 the ANC produced the **Harare Declaration**, which committed the organisation to "ending all conflicts through negotiations based

on the principle of justice and peace for all". (**Harare Declaration in Discussion Papers for the CDF**) The Declaration was then adopted by the OAU and by the United Nations. The Conference for a Democratic Future sat in December 1989, and adopted the Harare Declaration. (**Resolution on Negotiations and the Constituent Assembly in Conference for a Democratic Future - December 1989:18**) I must observe in parenthesis, though, that it is not a settled matter that the Harare Declaration was adopted by the CDF.

Now everything was in place for negotiations on the side of the liberation movement - at least on the side of the Congress Alliance. In his seminal speech on February 2, 1990 de Klerk unbanned the ANC, the SACP and the PAC, and stated that the time for talks had arrived.

THE BIG QUESTION

We have seen just above two years of talks. How close have they brought us to liberation? In their paper on **Negotiations and People's Power**, the ANC states:

... [U]nless the liberation struggle definitely ends with the transfer of power to the people, there is no instrument to guarantee that the misery experienced during preliberation days would be ended in all its forms.

If one accepts that this transfer of power is going to come about through negotiation, then one says it is possible to negotiate a constitution that will transfer power "to the people". A document entitled **Negotiations as a Terrain and Method of Struggle**, (**Discussion Papers for the CDF**) states:

According to dictionary definitions, the concept of negotiation means "give and take", a situation where parties of a different character meet to discuss or argue over areas where they may be capable of some agreement or modification of their positions, with results that may be mutually

beneficial.

The concept of negotiation is in many ways completely incompatible with complete victory or defeat It is true that one may be forced into negotiations on terms less favourable than one would wish. But the job of negotiators in such a situation, is to use the negotiating table to advance the struggle in their exchanges with enemy forces. It may be that this is impossible, but this is not because negotiations are useless.

If we negotiate and achieve less than we would like, it is the result of the strengths and weaknesses of ourselves and the enemy forces, both at the table and outside. In other words, victory is never achieved at the negotiating table alone.

This document alerts us to the difficult task that negotiators must needs have in trying to negotiate a constitution that will "transfer power to the people". Our task here is to enquire into the "give and take" that goes with such negotiations, and see how close to liberation it brings us. For that we need to accept, I think, that the ANC and the NP are the chief protagonists, and that all the other parties so far involved in the negotiations are allied to one or the other of the two. Therefore we need to take a look at the constitutional proposals of the NP and the ANC. I propose to treat these under the headings: State; Franchise; Equality before the law; Freedom (Speech, Press, Association); Land; Housing; Education; and Economic order.

THE STATE

The nature of the State is a thorny issue between the ANC and the NP. The ANC wants that the State should be "independent, unitary, democratic, and non-racial". (**Constitutional Guidelines in Discussion Papers for a CDF**) It wants sovereignty to be exercised "through one central legislature, executive, judiciary and administration". The Central Authority, however, should be able

to delegate some of its powers to subordinate state structures, but this only for "purposes of more efficient administration and democratic participation". As Nelson Mandela has explained, this is democracy as it is understood all over the western world.

The NP sees the matter differently. They want a constitutional dispensation, which must be based on "certain fixed points of departure". (**Constitutional Rule in a Participatory Democracy**) The National Party's Framework for a new Democratic South Africa 1991:1) They state:

For the framework sketched above to really satisfy the unique needs of the South African situation, and to conform to our basic points of departure, it is necessary to frame the constitution in such a way that a constitutional state is established. (ibid. p5)

Later:

The concept "constitutional state" expresses the view that the constitution of a country should regulate the power of government in such a way that freedom, justice and legal certainty are guaranteed for all. Thus we are concerned with a constitutionally entrenched legal dispensation involving seven principles:

the constitution must be the all-embracing criterion and guideline for the state and the citizen. Consequently it will enjoy a higher status than all other law; it may only be amended if special procedures are followed and compliance with its prescriptions will be enforceable by the courts.... (ibid. p6)

The gap between the positions of the ANC and the NP is vast. The NP effectively means, by constitutional rule, just that: sovereignty must vest in the constitution! So long as the constitution is in place, it would then really not matter who is in

Tuynhuis: they cannot change anything. Just in case they try, the NP wants the provisions of the constitution to be enforceable through the courts. So, the Supreme Court should have the power to test legislation and declare same invalid if it does not comply with the constitution. (See on p7) All this from a Party which has scorned the idea of the testing right of the courts for so long! All this from a Party which rode roughshod over the entrenched provisions of the 1909 Constitution which guaranteed coloureds the right to vote in the Cape!

Clearly, if this is the thinking of the NP, we can expect them to fight hard at the negotiating table to ensure that the constitution will in the first place entrench quite a bit of the "old" South Africa. In their campaign during the last referendum, they were explicit that they want "a constitution that ... offers security to those who have a lot to lose". (Sunday Times, March 15 1992) Once they have such a constitution in place, they want, in the second place, to have it entrenched so that it cannot be changed easily. They were clear during the referendum campaign:

Once this constitution has the approval of all parties sitting round the negotiating table, no single party will have sufficient power to disregard it in the future. (ibid)

Hence their insistence on abnormal majorities for writing and for changing the constitution at CODESA. Given, then, that there is such a gap between the thinking of the ANC and the NP on the nature of the State, there will have to be quite a bit of "give and take" at the negotiating table if there must be agreement. And who is going to give more is going to be determined in a very significant way by the power relations between the negotiating parties. Mike Miles writes:

Where a party perceives it has greater power, it will delay making concessions. Where it perceives itself to be weaker, it will either be encouraged to create more power [for itself - MS] or allow unilateral concessions. (Miles M 1990:20)

Should the power relations not favour the ANC - and I would say they presently do not - and should the ANC be unable to change the power relations, it seems that, on the nature of the state, the negotiations might not end with power being "transferred to the people".

THE FRANCHISE

The ANC's position is simple and straightforward:

In the exercise of their sovereignty, the people shall have the right to vote under a system of universal suffrage based on the principle of one person/one vote. Every voter shall have the right to stand for election and to be elected to all legislative bodies. **(Constitutional Guidelines)**

The NP states:

By "participatory democracy" is meant that a system of government is developed in which a number of political parties effectively participate and in which **power-sharing** therefore takes place. This is in contrast to the **Westminster** system in which one party exclusively enjoys power.... The National Party's conviction is that a new constitution should offer the opportunity for every viable political party to play an effective role at local, regional and central government levels. **(The National Party's Framework for a new Democratic South Africa:8-9)**

The NP then proposes a bicameral parliament where

Each political party which has gained a specified amount of support in the election in the region's legislative body will be allocated an equal number of the seats for that region in the Second House.... (ibid p12)

This type of thinking shows once more that the NP is not really intending that at the end of the negotiations power should be "transferred to the people". Peter Fabricius has made the following illuminating comment:

The new plan is by no means as crass. There is no suggestion ... that a minority party could actually push legislation through. But there is every suggestion that it could quite easily, and at every turn, throw a spanner in the works of the majority party's legislative programme.

It is worth recalling that in the discredited tricameral Parliament, the white, coloured and Indian houses are all "equal" - until they fail to reach consensus, when the NP-dominated President's Council breaks the deadlock in the NP's favour.

Where Mr Botha's version of equal power sharing was clearly a ruse to disguise NP domination, Mr de Klerk's does seem to be genuine expression of the principle. **But it would share power so evenly between the majority and the minorities that deadlock would seem to be inevitable.** (The Star 1991 09 06: My emphasis)

Once more, then, if the "give and take" at the negotiating table does not favour the ANC, we might be saddled with a franchise that does not really help change, as the ANC might say, our "preliberation misery" very much. We might then come to appreciate the point of a French cartoonist who once observed: Voting [in capitalist society] is like pissing against the wind.

EQUALITY BEFORE THE LAW

It is unlikely there could be a very serious formal problem. The government's reform programme has been running kind of parallel with - even ahead of - negotiations. The whole import of the reform programme has been to bring about equality before the

law. So long, then, as equality before the law means the law takes you as you are, and treats you on an equal basis with everyone else, there is unlikely to arise serious disagreements.

But the ANC's guidelines indicate that the organisation is unlikely to be satisfied with that:

The constitution shall include a Bill of Rights based on the freedom Charter. Such a Bill of Rights shall guarantee the fundamental human rights of all citizens....

(j) The state and all social institutions shall be under a constitutional duty to take active steps to eradicate speedily, the economic and social inequalities produced by racial discrimination.

So, the ANC would really prefer active steps to ensure that people are equal. Indications are that the government might prefer to base itself on the Universal Declaration of Human Rights. (SA Law Commission, Working Paper 25: Project 58: Group and Human Rights in Levy, Annual Report on Labour Relations in South Africa 1991 - 1991:55) At any rate government spokespersons have tended to scoff at the ideas expressed in the ANC document, suggesting that they have no place in a constitution.

THE FREEDOMS

Again there is unlikely to be a very serious difference on these. If anything, the NP is going to be more in need of these than the ANC: Mitchells Plain and Boipatong are too fresh for them to forget. Addressing the United Nations Security Council recently, Pik Botha indicated that the aim of the NP is to become the majority party. To become that, or even to try and become that, I think that they will need to champion the freedoms mentioned above.

LAND

The ANC guidelines state:

The state shall devise and implement a land reform programme that will include and address the following issues: abolition of all racial restrictions on ownership and use of land, implementation of land reform in conformity with the principle of affirmative action, taking into account the victims of forced removals.

The NP's document is silent on the matter. However it is not going to be possible to keep the matter off the negotiating table. The Conservative Party and its allies have insisted for a long time that they want an Afrikaner homeland. The NP has consistently said that they (Conservatives) are free to come and present those views at the negotiating table. The prospects of those views now being presented at the negotiating table are more than good, since the 5 CP MP's who broke away from the Party did so exactly in order to do that.

The NP might take the view that the land question is not a constitutional matter. If the debate were limited among parties which favour a unitary country, there might be some sense in the argument. But the conservatives are raising a claim which throws up the issue of where the borders of South Africa must be drawn. That is a constitutional matter.

But if the matter is settled on the basis that the conservatives raise it, then it seems that the land hunger of the majority is unlikely to be satisfied after the negotiations shall have come to an end: it is possible to settle the borders of South Africa without redistributing the land in the manner that the liberation movement has been arguing. Indeed, government officials and businessmen have admonished that it is irresponsible to raise expectations that are unlikely to be met in this regard.

HOUSING

Neither document refers to the matter. But according to the ANC proposals on the Bill of Rights

In order to guarantee the right to shelter, the State shall, in collaboration with private bodies where appropriate, dismantle compounds, single-sex hostels ... and embark upon and encourage an extensive programme of house-building.... No eviction from homes or from land shall take place without the order of a competent court, which shall have regard to the availability of alternative accommodation. (Levy p52-53)

Article 25 of the Universal Declaration of Human Rights states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, housing(Levy p56)

EDUCATION

The ANC Guidelines require that the state shall have the obligation to guarantee the right to education and social security. The matter is set out in greater detail in the organisation's proposals for a Bill of Rights. Article 10.1 says "All men and women have the right to enjoy basic, social, educational ... rights". Article 10.10 provides for:

- * Free and compulsory primary education;
- * progressive expansion of access by all children to secondary education as a right;
- * progressive increase in access to pre-school institutions and institutions of vocational training and of higher learning;
- * increasingly extensive facilities to enable adults to overcome illiteracy and further their education. (Levy p52-53)

Although the government has insisted that the issue of different education departments will be resolved with the negotiation of a new constitution, its constitutional proposals are silent on education. However, Article 26 of the Universal Declaration of Human Rights which, as I have suggested, it seems the government wishes to base itself on, states:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups....

Parents have a prior right to choose the kind of education that shall be given to their children.

(Levy p56)

If indeed the NP intends to base itself on these declarations, it does not seem that there should arise any serious disagreement at the negotiating table. Whether, however, the agreement will bring about a fundamental change in the access to education by children from working class backgrounds is a mute point. It is known that several western democracies have not been able to expand access to education in any meaningful degree to children from working class backgrounds.

THE ECONOMY

According to the ANC Guidelines

- * The state shall ensure the entire economy serves the interests and well-being of the entire population.**
- * The state shall have the right to determine the general context in which economic life takes place and define and limit the rights and obligations attaching to the ownership and use of productive capacity.**
- * The private sector of the economy shall be obliged to cooperate with the state in realising the objectives of the Freedom Charter in promoting social well-being.**
- * The economy shall be a mixed one, with a public sector, a private sector, a co-operative sector and a small scale family sector....**

The NP plan does not deal with the matter - I venture to suggest that because it does not consider it an issue. But in their referendum campaign the NP did say that it is for capitalism, and that it has already scored a victory at CODESA in that those who are inclined to the socialist notion of nationalisation have already declared their intention to revise their stand in the face of pressure at home and abroad. (Sunday Times supra)

CUL DE SAC?

At the beginning of this paper I have tried to capture the sort of things that our organisations have been saying they are working towards. These are:

- A. full political rights, variously expressed as one-man/person-one-vote or majority rule;**
- B. correcting the imbalance in land ownership, variously expressed as revising the land question, reconquest of the land, sharing of the land by those who work it, and state ownership of the land;**

- C. an equitable spread of the wealth of South Africa;
- * free and compulsory education for all up to a certain age;
 - * adequate and safe/inviolable housing;
 - * Equality in rights;
 - * Freedom of speech, of association and of the press;

D. socialism.

It seems to me that we have hit a snag in respect of most of these. But a snag is not yet a **cul de sac**. I have already suggested that power is an important factor in negotiation. Lewicki and Litterer, quoted by Anstey, define power as "the ability to get another party to do something they would not ordinarily do by controlling the options they perceive to be open to them". (Anstey 1991:114)

This statement seems to me to express rather aptly what the problem of the liberation movement has been till now. I have outlined the build-up to the negotiations. From that outline it seems to me clear that the options of the liberation movement were manipulated in such a way that a component of the movement could see one path only - the path of negotiation. The matter did not end there, even as that path was trudged, the options of the movement continued to be controlled in such a way as to encourage it to make a number of unilateral concessions.

The other components of the movement verbalized their ability to see other options. But the ability to see, important as it is, is not enough for the realisation of the objects of the liberation movement. It is incumbent on these components to be seen to translate their vision to acts which are capable of liberating people. If the components of the movement which claim a better vision than the ANC cannot translate that vision to acts which are capable of liberating people, history teaches us even now that it is only a matter of time before they too will trudge the same path as the ANC: and possibly under similar conditions as the ANC.

If our big problem was one of having our options defined for us, we can unlock that by sitting back for a while, and making a sober assessment of our options. Naturally in every situation some

factors will simply be given. But within the parameters of those given, we need to urgently decipher workable options. We also need to find ways of controlling the options that the regime thinks are open to it. I wish to suggest a few things I think can still be done by way of retrieving lost ground.

1. I think the liberation movement has yet to come to terms with the role that power plays in negotiation. This is so trite, one would not think that the movement needs to be reminded of it. But if we did not need to be reminded of it, then we should not bank on the integrity of this or that politician we are facing at the negotiating table. That we went to the negotiating table from a position of relative weakness seems to me indubitable. Now that we are there in the form of the ANC - and it seems soon we shall be saying the PAC and AZAPO too - can we afford to remain weak? Have we learnt anything from the huge concessions the regime has extracted from us, while it has yielded so little?

2. If we are going to have any meaningful power, the unity of the liberation movement is imperative. We know from history that we say this all the time, but we do nothing to forge unity. At the beginning of the open talks between the ANC and the government the most embarrassing thing was the way in which the government and the ANC appeared to be competing on who was going to pull AZAPO and the PAC onto the negotiating table. It seemed as if the stature of AZAPO and the PAC would be enhanced if the regime saw fit to deal with them directly: that would amount to recognition. On its part, the ANC seemed bent on sketching a scenario where the one side of the table would be occupied by the regime and its subalterns; while the other side was going to be occupied by the liberation movement under its leadership. Now, it may well be that the ANC has earned the right to be considered to be at the head of the liberation movement: that does not take the debate about building a united liberation movement for a specific objective very far. The question as to which organisation is at the helm will be determined by a different mechanism after we have ensured that, in the "give and take" that the ANC warns accompanies negotiations, we do not give more than we take. The revival of the Patriotic Front then becomes an imperative: but it has to be a patriotic front of the liberation movement. The

Church can help put pressure on our organisations to unite for the very specific purpose of ensuring that "the preliberation misery" of our people does not pass with us into "the post-apartheid" South Africa.

3. Richard Hyman remarks about collective bargaining:

Collective bargaining is a meaningless ritual if nothing more is involved on the trade union side than the eloquence and finesse of the official negotiators. For the employer can always ignore the union's case, however solidly documented and cogently argued, unless it is backed up by the possibility of sanctions. Serious negotiation involves the overt or implicit threat of collective action ... if a satisfactory settlement is not achieved. (Quoted in **The Azanian Labour Journal** Vol 1 No 2 p40)

This statement is in my view equally - maybe more - applicable to negotiations of a political nature. If the regime has nothing to fear; if it seems that, off the negotiating table, the liberation movement poses no threat, all the good arguments for transformation will count for little. The ANC seems to understand this very clearly. That is the inference we have to draw from their mass action campaign. The regime, however, would very much like to control that option too. Like the government did with the option of armed struggle, they would like to seal the option of mass action off with the cooperation of the liberation movement. One must hope that we have reached a level where we understand, as negotiators do, that concessions are made only in return for concessions of comparable magnitude or value; that to make a concession which is not reciprocated is to reward intransigence.

The ultimate sanction in political negotiations is the support of the public. When the talks between the ANC and the government started, the NP was speaking about power sharing. In time they have come around to combine this conception with the possibility of taking on the ANC in a straight electoral fight. So they have now started talking about becoming the majority party. They have

read the situation, and they are convinced that it is possible in time to outstrip the liberation movement in terms of popular support. Because, then, that is how they are reading the situation - and maybe they are reading it correctly - they can afford to be difficult customers around the table. After all their sense of the situation is that public support is growing for their political positions. We have to block this option, or the lessons of the DTA in Namibia will have been in vain.

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