

DEMOCRACY AND KWANATAL *

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INTRODUCTION

A workshop such as this is a necessary process if we are to properly understand the KwaNatal Indaba. One of the realities of modern political life is that the media batter us with opinions but seldom give us the information and analysis that would allow us to make more considered assessments. Much is at stake for everyone in South Africa at present and the media are trying desperately to shape our choices. Often they succeed in this. In the media world the KwaNatal Indaba is one of the largest advertising and marketing operations on the go. This politics by opinion shaping is a reality that cannot be wished away and it is a pointless exercise to endlessly bemoan it. However, we should remind ourselves of this reality in an attempt to open our minds to a more objective process of inquiry.

It is worth reminding ourselves of some other cautionary points before we start serious discussion and enquiry.

- * free and open debate is not possible in South Africa because of the suppression of information and views. This is especially serious with regard to the Indaba because the media are generally its greatest supporters.

- * this is potentially a time of great change in South Africa. People fear for their material future. Whether they are justified in this fear matters little. The fear is there and as a consequence we must expect more and more sophisticated attempts to protect vested interests. The very best way of protecting a vested interest is to persuade everyone that it actually represents the common and most reasonable interest.

Bearing these caveats in mind how does one make an assessment of proposals such as those arising out of the KwaNatal Indaba? A good starting point is certain more fundamental issues, after which we can consider the immediate choices posed.

WHAT IS DEMOCRACY?

I have been asked to address the issue of democracy. Relating the Kwa-Natal proposals to democracy would be easier if there were a clear-cut and absolute state of affairs called 'democracy'. But there is no such thing. Democracy is a complex political process, not a simple one. It has an

objective meaning which is distinct from our own immediate purposes. It is an identifiable process. We must identify the democratic process carefully, precisely in order to avoid it being used as a convenient label of approval or disapproval.

Democracy is a complex notion but I believe that its great political power is that it has a clear and identifiable core. Central to this are the notions of participation and equality. Such notions have been political and philosophical anathema in most periods of human history. They imply a degree of individual identity and equality of persons that was inconceivable to virtually all pre-capitalist societies.

The degree of participation and equality under capitalism has not been complete nor has it embraced all adults in the society. The notion of liberal democracy has been closely tied to that of private property. Early capitalist societies envisaged participation by, and equality of, property owners. The franchise for workers or wage labourers is little more than 100 years old in the most advanced capitalist countries; for women it is considerably less than 100 years. This serves to remind us that democracy is a political process that has progressed out of the interaction of political ideals, the protection of vested interests and the struggle to expand the degree of participation and equality.

The franchise was not extended to propertyless workers or to women without them organising and struggling for the right to the franchise. In this struggle the core notions of participation and equality lent just cause to their case and constituted a moral Achilles' heel for the ruling classes and their vested interests. The outcome of this struggle has led to a present day position where participation is understood to embrace all adults in the society and where the basis of equality is the person's humanity and their humanity alone.

These are very powerful political notions and a very clear guide and impetus to political action. What is as important to stress is that there are some very powerful and compelling consequences if these core notions are to be effected in reality.

THE STRUCTURES OF DEMOCRACY

Let us start with the core notions of participation and democracy and build from there. Participation by large numbers of people on the basis of the equal weight of their views and aspirations must have as a consequence the structuring of representation. Our society is presently incapable of allowing all persons the ability to participate in all decisions all of the time. Decisions are taken by elected representatives within defined structures. If people are to participate indirectly in decision-making then

they must be able to elect who will represent them. To have your representatives appointed by someone else clearly restricts your right to participation.

This election of representatives has a string of other consequences that are central to a democratic process. If people are to elect their representatives, then they must be in possession of sufficient information to enable them to decide as to who should represent them and on what issues they wish to be represented. The free availability of information requires that there be FREEDOM OF EXPRESSION.

Next it is clear that every person cannot elect his or her own personal representative. There must be fewer representatives than there are those who make the election. It is, therefore, inevitable that people of like views will want to come together in an attempt to ensure that they are able to elect a representative who will express and represent their viewpoint. This requires that there be FREEDOM OF ASSOCIATION. If this is restricted, it restricts the right to representation and therefore the degree of participation.

The fundamental purpose of electing a representative is that he or she represent other people's views and wishes - in effect the representatives carry out the mandate of those who elected them. If the mandate is to have meaning those who gave it must be able to hold their representative accountable. This in turn they can only do if there is a report-back to them on the actions of their representative. In a sense then, the working parts of a democratic system are the processes of MANDATE, REPORT-BACK and ACCOUNTABILITY.

What we have looked at are the fundamental consequences of the core democratic notions of participation and equality. They amount to the pillars of any democratic structure. It may be worth just briefly stating them again:

- the right to elect representatives
- the freedom of expression to ensure full information is available
- the freedom of association in order to promote common views
- the related processes of mandate, report-back and accountability.

JUSTICE AND THE PROTECTION OF DEMOCRACY

Before making the fairly obvious point that around these pillars of democracy there can be built buildings of different design, we need to look at a crucial institutional protection of democracy - the institutions and procedures of justice.

In the United States the pillars of democracy were codified in a Bill of Rights. The United Nations Declaration of Human Rights is a similar state-

ment of the basic requirements of democracy. Such statements are important but it is also possible to embody democratic principles in constitutions, or as is largely the case in the United Kingdom, within the body of case law or statute.

The procedures and institutions of justice must effectively protect individual and collective capacity to enjoy to their fullest the rights embodied in what we have called the pillars of democracy. Participation and equality will be eroded if one group can use administrative and institutional power to advance their own vested interests over those of others.

For justice to carry out this protective function a number of important procedures are necessary. Some of the most important of these are:

- the right to know what you are accused of
- the right to be heard
- the right to call witnesses
- the right to interrogate (in the normal sense of the word and not its Security Police sense) your accusers
- the right to be tried by an independent party
- the right to appeal to an independent party

The pillars of democracy can be enshrined in any number of Bills of Rights and Constitutions but if the procedures of justice are not operative then democracy is a dead letter. South Africa currently illustrates this only too clearly. Thus far, we have looked at the requirements that define democracy as a political process. However, these requirements must also exist in a real world of relationships.

PARTICIPATION AND POWER

As industrial societies have developed, so has a greater flow of information and higher levels of literacy and numeracy. A greater degree of cohesion and organisation of labour has also developed. As a consequence people are better able and equipped to actively participate.

However, effective participation is clearly a question of power. The capacity to participate requires more than formal constitutional structures. In a money and market orientated society one of the main determinants of power is the financial resources available to people. It is the workings of the economy that allocate resources and it is these resources that affect the media and culture and the extent of influence that particular groups have. Thus even in liberal capitalist societies the disadvantaged have come to feel that it is the workings of the economy that are above the political will of the majority as expressed through democratic structures. There exists an unequal distribution of power based on the unequal control over wealth.

This inequality at an economic level gives rise to the unequal capacity to mobilise and marshal information, people and resources. So within the right to elect, within the freedom of expression, within the freedom of association and within the procedures of justice, there come to exist very unequal capacities to enjoy and use these rights and institutions.

These developments within capitalist industrial economies have led to profound debates around the workings of democratic structures. It is not possible to go into all aspects of this debate but one thrust is to argue that the power of the majority has to be asserted. If the pillars of democracy have not been fatally corroded then attention must be focussed on the processes of mandate, report-back and accountability. It is argued that at present mandates are too general and irregular, that report-backs are sporadic and incomplete and that as a consequence accountability is seriously weakened. Greater participation by the economically disadvantaged majority requires more specific and regular mandates, continuous and complete report-backs, and that these processes serve to strengthen accountability. The stress on mandate, report-back and accountability is characteristic of arguments for a more participatory democracy. These considerations are a convenient way of introducing other major conceptions of the democratic process.

Socialists argue that such participatory democracy cannot be achieved unless the underlying power differential is addressed. They argue that this stems from the very unequal distribution of wealth that arises from the private ownership of the means of production. Even within the socialist position there are those who argue that participatory democracy cannot be effected within a system of highly centralised economic planning. The debate centres around a more democratic balance between central planning and greater participation within production and consumption decision-making processes.

The particular history and structural characteristics of a country's political economy will affect how the pillars of democracy are related to each other. These pillars have to be built in most countries, but all of them have to be built if democracy is to exist.

THE DEMOCRATIC PROCESS

Before examining the KwaNatal proposals it may be useful to summarise the argument thus far. Democracy is a political process. Its institutional form arises out of an interaction between political ideals, the protection of vested interests and a struggle to expand the right to participation and equality to all in the society. The institutional forms that come to embody the democratic process may differ between countries and it differs markedly

between capitalist and socialist countries.

However, this does not mean that any institution or State that purports to be democratic is, therefore, democratic. Such expediency is avoided by the power of the political ideals that lie at the core of the democratic notion. This core is the notion of participation and equality. These in turn impose certain requirements that I have referred to as the pillars of democracy. The institutional forms must allow these pillars to stand as a whole, otherwise the claim to democracy cannot be made.

We also have to address the central issue of effective participation - participatory democracy - and not rest only with its formal possibility. Effective participation is a power capacity and not a formal constitutional form alone. This is an important point as we turn to address the KwaNatal proposals.

THE KWANATAL PROPOSALS

I have spent a great deal of time looking at democracy in order to establish that it is a process. We have no perfect mould against which to measure the KwaNatal proposals but we do have some powerful requirements for the constitution of democracy. It seems to me that the KwaNatal proposals have to be assessed on two interrelated terrains. Firstly, how do they relate to the pillars of democracy? Secondly how do they relate to the present political and economic process in South Africa?

I do not intend an exhaustive and detailed assessment. I hope that what I have said will spark in you the desire to carry out such an assessment. I wish to deal only with what I consider are certain key issues. Let us start on the first terrain. I would ask the question as to whether the proposals were themselves drawn up in a democratic way. To this question the answer must surely be a clear No.

- * Was there a right to elect representatives?
NO. Only organisations were represented.
- * Was there information and freedom of expression?
NO. In the first place because of South Africa's security laws but, secondly, because the proceedings were conducted in secret
- * Was there freedom of association?
NO. In the first place because there was no election of representatives and secondly because South African law suppresses freedom of association
- * Was there mandate, report-back and accountability?
NO. Surely when people do business with members of the Natal Chamber of Industries they don't thereby give it a mandate to negotiate the constitutional future. Report-backs to the people

and possibly the organisations were barred and how exactly one holds the NCI or AHI accountable is unclear.

* What of the processes of justice?

It could be argued that this issue cannot be related to the formulation of proposals as such. However, surely one cannot ignore the political reality that the State has overridden the processes of justice and that many more potential opponents than potential supporters of the Indaba were in detention.

Now I am fully aware that many cogent arguments have been used to justify the methods of the Indaba as a necessary, and even brave, political act. One is the claim that elaborate theories of consociational democracy have been used in justification of the fact that the proposals were negotiated by 'leaders' alone. It has been argued that, whatever the shortcomings, this is a bold attempt to break the political logjam that bedevils reform initiatives. Respected authors have used emotional advocacy to claim the proposals as the most sensible, reasonable and hopeful in 335 years of South Africa's history; endless, but usually incomplete, analogies are made with how constitutions were adopted in other countries. What we have to decide is whether there was in fact therefore justification in flouting each and every one of the pillars of the democratic process. We must beware of a sleight of hand that removes all political alternatives in order to leave KwaNatal as the only option. Those advocating measures which they believe are necessary to bring about the basic conditions for democratic decisions to be taken are tarred with the brush of violence and destruction. The Indaba is made positive against this nihilism which has carefully been constructed by the media. The real substance to alternatives is never looked at.

Are we not seeing the concerted, and at times desperate, advocacy of a particular position? We should assess carefully whether vested interests are being protected or whether the Indaba does constitute an advance toward democracy. To what extent are we witnessing a desperate clutching at political straws by those who are tired of the horrors of South Africa and have lost the energy and will to root out tyranny and brutality?

Let us assess more carefully whether the proposals do open a democratic path. For the reasons looked at earlier it is seldom possible to deal a knock-out blow to constitutional proposals on their own terms. However, there is a configuration of factors within the Indaba proposals which seem to me to seriously limit the democratic process.

- The right to elect representatives is complicated and qualified. In a crucial area of the executive there is the power of appointment.
- Freedom of expression: Since KwaNatal would remain within South

Africa we retain its security legislation. However the provisos built into Clause 14 of the Bill of Rights are cause for concern. Would a Kwazulu government unban the Communist Party? This would be a real test of its commitment to freedom of expression.

- Freedom of association. This is severely curtailed in the interests of protecting group and cultural identities. No matter how much one wants to avoid the conclusion it is quite clear that this must in effect perpetuate racial divisions. Culture is an elusive and shifting description. When a person comes to vote you cannot interrogate them on their musical tastes and eating habits. In South Africa the most apparent mark of 'culture' is race and skin colour. The notes on the voting procedure virtually say so in as many words.

At stake here is a fundamental question of equality. The proposals mediate equality by an indefinable category called culture. Democracy, as presently understood, means that the right to equality is established by a person's humanity and that alone. There is a profound difference between protecting the right to conduct one's life according to certain cultural practices and arranging the process of government on these cultural practices.

- Mandate, report-back and accountability. A detailed critique of how the proposals weaken the mandate, report-back and accountability mechanisms could be done but in short, the process of governmental decision-making is so complicated that it will affect report-back. In particular it will not be clear where a constituency's wishes were thwarted. Here the cultural identities and near-veto culturally defined communities have could be a problem and lead to a tendency not to report back because of the sensitivity of the issues. As we've seen in the Tricameral Parliament more and more government is done by committees and not a representative body. In this context the proportional voting system makes it hard to know who exactly to hold accountable for decisions and more difficult to follow how the voting went. Quite clearly in such a complex system of government voters give only a very general mandate; to do otherwise would make government impossible. What this all points to is the kind of government envisaged by theories of consociational democracy, which is government by leadership elites. In view of the difficulties of accountability outlined, a legitimate fear arises that a leadership elite will act to protect their material interests within a governmental system that fragments a large worker majority and distances that disadvantaged majority from final political decision-making.

- The processes of justice. The Bill of Rights makes clear reference

to processes of justice that will operate in a KwaNatal. However, in this Bill of Rights there is a distinctly worrying factor. If one looks at the Universal Declaration of Human Rights one finds remarkably few provisos. It might be argued that it is this that makes this Declaration subject to continual abuse and violation. On the other hand these are declarations of principle not statements of the imperfections of the real world. The worrying part of the proposed Bill of Rights is that the provisos relate to areas that might be referred to as political crimes. Having experienced what it means to run foul of the so-called security of the present South African state, these provisos have a very uncomfortable ring to them.

ARE THE PROPOSALS A REAL ALTERNATIVE?

Having measured the proposals against the pillars of democracy let us move to the second terrain and ask whether these are acceptable proposals in the current political and economic circumstances. The question is whether these KwaNatal proposals offer an acceptable option - be it only in one Province - at the end of a very long, brutal and costly struggle for democracy in South Africa.

Having asked the question the most immediate response to this has to be that no one yet knows the answer since the people of South Africa have never had the chance to democratically decide on their future. No amount of advertising and subsequent opinion polls can substitute for this democratic process. However, I believe that we can state some points that are worth serious reflection.

Why, having fought so long for democratic rights, should people and organisations accept proposals that were so undemocratically decided upon? Having experienced the effects of racism, nearly all major political opposition groups have expressed their complete opposition to racial distinctions. Why now should a government form that does not escape racial distinctions but de facto bases government on race, be an acceptable solution? Is it likely that the organised working class, confronted by massive wealth disparities and economic deprivation, will accept a system of government that will surely protect and entrench existing group interests?

No doubt these are all open questions. The issue at stake is whether the Indaba is an opening to a more democratic process or whether it is a final step in our undemocratic past. Given South Africa's excessively bitter and authoritarian political history I believe solutions require a democratic future - one of participation and equality - if we are not merely going to lay the grounds for the immediate renewal of the struggle for democracy.

Our country is riven by inequality and serious structural problems in the economy. A system of government that allows groups to continue to protect existing and unequal material interests is a recipe for continued conflict.

It is my fear that the Indaba proposals were devised by persons who were no doubt well-meaning but who could not rise above their fear of the envisaged material consequences of a democratic state.

However, there are organisations - the unions being one - who no matter how often they are smeared, physically attacked and detained attempt to practice democracy as best they can. These organisations know the consequences of a lack of democracy and have no reason to fear democracy and for those reasons they will struggle on for the achievement of a democratic South Africa.

* This is a paper delivered in Durban, 6 August 1987.

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