

## 10 *Multiple communities: Muslims in post-apartheid South Africa*

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In letters to newspapers and call-in programmes on radio stations, and also among many journalists and political commentators, South Africa's Muslims are largely viewed as a monolith, whether they live in the working-class townships of Phoenix in KwaZulu-Natal (KZN), the Cape Flats in the Western Cape (WC), or Soweto in Gauteng; or the plush suburbs of Houghton in Gauteng or Westville in KZN. That very many among them turn daily towards Makkah in prayer seems to be sufficient to conclude that Muslims constitute a unitary bloc. This, of course, is not the case, as we argue in this paper. We explore change and continuity, conflict and harmony, both among Muslims, and between them and the wider society, as well as the competing voices of authority among Muslims, and the multiple narratives of what it means to be a Muslim, in the context of rapid social, political and economic changes during the past decade. This paper is divided into three parts. The first section profiles South Africa's Muslim population; the middle section provides a historical and contemporary perspective on Malay, Indian, and black African Muslims; while the final part focuses on significant developments affecting Muslims during the past ten years, national and global, and how they have responded to these challenges. Throughout, we underscore the role of race, class, ethnicity, politics and gender in fashioning and re-fashioning Muslim identities.

### *Census 2002 - markers of differentiation*

Islam is a minority religion in South Africa. Muslims, numbering 654 064, comprised just 1.46 per cent of South Africa's population of 44.8 million in 2001. Even among coloureds and Indians, Muslims are a minority, constituting a quarter of the Indian population and 8 per cent of the coloured population.<sup>1</sup> But as Tayob has observed, statistics do not reflect the qualitative

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experience of being Muslim in South Africa. Residential concentration of Indian and coloured Muslims in racially segregated urban areas has meant that many of them live in proximity to mosques and madrassahs, and have a strong sense of being Muslim (Tayob 1996).

**Table 10.1** Muslim population per province and race

	African	White	Indian	Coloured	Total
EC	3 601	630	5 866	9 575	19 672
FS	1 798	108	1 847	284	4 037
G	24 597	2 967	98 823	23 695	150 082
KZN	2 987	1 036	117 424	6 143	142 460
L	3 760	90	6 242	195	10 287
M	9 429	227	6 680	500	16 836
NC	738	65	1 015	2 833	4 651
NW	4 717	221	7 234	961	13 133
WC	8 204	3 065	29 800	251 837	292 906
Total	74 701	8 409	274 931	296 023	654 064
Percentage	11.42	1.28	42.04	45.26	100.00

Note: Eastern Cape (EC), Free State (FS), Gauteng (G), Kwazulu-Natal (KZN), Limpopo (L), Mpumalanga (M), North West (NW), Northern Cape (NC), Northern Province (NP), Western Cape (WC)

Table 10.1 reflects the perception that Islam is a 'foreign' religion. However, while Indians and Malays make-up the bulk of South Africa's Muslims, Africans constitute the fastest growing segment, having increased by 52.3 per cent since 1991, when they numbered 11 986. The proportion of Muslims who are African increased from 3.5 to 11.42 per cent during this period. There are many markers of differentiation besides race. Class differences are stark. The average per capita income of Indian Muslims was R2 163 per month, Malays R1 262, and Africans R935. Among Indian Muslims, per capita monthly income differed regionally – R2 794 in Gauteng, R2 396 in the WC, and R1 656 in KZN, reflecting the predominantly trader origins of Indian Muslims in Gauteng and WC, while most Indian Muslims in KZN have indentured roots.

Class differences are due to discrepancies in education levels, unemployment, and income levels of the employed. A sample of Muslim males in the 18–65 age group reflects that of 80 238 Malays in the WC, 39.52 per cent were paid employees, 55.76 per cent 'not working', and only 4.72 per cent self-employed;

among the 36 500 Indians in Gauteng, 45.38 per cent were paid employees, 19.87 per cent self-employed, while 34.75 per cent were 'not working'. In KZN, 44.92 per cent of 39 845 Indians were paid employees, 14.83 per cent self-employed, and 40.25 per cent 'not working'. Work status is influenced by level of education. Africans were at a huge disadvantage. In the 20+ age group, 13.9 per cent of Africans had no schooling, as against 5.23 per cent Indians, and 2.29 per cent Malays. While 35.94 per cent of Indians completed Grade 12, only 24.67 per cent of Africans and 24.17 per cent of Malays did likewise. The percentage with university degrees was 7.72 per cent of Indians, 3.09 per cent of Africans and 2.07 per cent of Malays. Language is another marker of differentiation. While 92.7 per cent of Indians regarded English as their first language, among coloureds the divide is roughly equal between English and Afrikaans, with Afrikaans predominating in the WC; among Africans, English (18.61 per cent) and isiZulu (28.62 per cent) predominate with isiXhosa, Sepedi, Setswana and SiSwati also represented. Given the importance of English in the economy, proficiency in this regard has given Indians an important advantage. Given these profound differences, Kramer's observations are germane. Islam and Muslims, she contends, should not be seen as a:

distinct and homogeneous entity that is essentially defined by normative texts, i.e. the Qur'an as divine word and the Sunna, or tradition of the Prophet Muhammad. For the unreformed orientalist, Muslims are sufficiently defined by their being Muslim... They are overdetermined by Islam. (2000:57)

### **Regional/'racial' developments**

#### **Western Cape**

#### **'IMAGINED COMMUNITY?' CONTINGENCY OF MALAY-NESS**

The notion of being Malay is heavily contested. In the South African context 'Malay' refers to coloureds of the Muslim faith who, until the twentieth century, were referred to as 'Mohammedan', 'Malay', 'Mussulman' or 'Coloured Muslims' in official records. Malay ethnic identity was constituted from the 1920s, largely as a result of folklorist Izak du Plessis, whose book, *The Cape Malays* (1944), formally isolated coloured Muslims from the broader coloured community by presenting them almost as a distinct Malay race (Jeppie 2001). Adhikari (1989) has shown that 'Malay' identity was open, and embraced

individuals from diverse cultural and racial categories, including descendants of slaves from South and Southeast Asia and Mozambique, Arabs, and Khoisan. The Population Registration Act of 1950 formally divided South Africans into four race groups, whites, Indians, Africans, and coloureds, who were defined as 'not a white person or a native', and sub-divided into 'Cape Malay', 'other coloureds' and Khoisan.

The hardening of apartheid during the 1960s and 1970s, and the emergence of a political climate in which there was widespread support for internal and external liberation movements, resulted in coloureds and their sub-categories attaching 'so-called' to their ethnic labels. Politically, younger coloured Muslims opted for the label 'black', while the religious label of choice was Muslim (Haron 2001). Social historian and radio presenter Achmat Davids (1938–1998) exemplified the contingency of identity. Davids influenced a generation to use the term 'Cape Muslim' rather than Malay, which he saw as filled with racial bigotry (Davids 1980:12). But as the political situation became fluid in the early 1990s, Davids reverted to the nomenclatures 'Malay' and 'Indonesian' instead of 'Cape Muslim', began wearing Malaysian headgear and in 1994 visited Indonesia (Jeppie 1998/99). Assertion of 'Malayness' during the post-apartheid period must be seen in the context of the 'rainbow nation' concept put forward by former president Nelson Mandela, which encouraged people to seek their own identities. Ward (1996) locates the resurgence of 'Malay ethnicity' post-1990 within the framework of globalisation and political change in South Africa, which fragmented identities.

Since re-connection between Southeast Asian and Cape Muslims through a seminar in April 1993 on 'Evolving Muslim identity at the Cape', there has been a flurry of activity between the regions, and the formation of organisations like the Cape Malay Chamber of Commerce, the South African Malay Cultural Society, and the Forum for Malay Culture in South Africa. These groups defended their use of 'Malay' and have vied to attract moral and economic support from the Department of Arts, Culture and Technology in South Africa, as well as similar government departments in Southeast Asia, even though there are 'particularities to Malaysian Islam which are quite different from what has been constructed as "Malay" in Cape Town' (Pillay 2003: 296). The project to reinvent Malay identity has been opposed in many quarters. Jeppie, for example, warned that, 'If representatives of the new-found (re-

newed?) ethnicity, with its wealthy connections, contribute to the type of isolation, insularity and belligerent communalism rampant elsewhere in the world...they ought to be scorned and rejected by South Africa and its Muslim population' (1994:3).

#### PEOPLE AGAINST GANGSTERISM AND DRUGS

The cultural politics around identities in the Western Cape in the immediate aftermath of non-racial democracy gave way to more urgent questions of gangs and drugs. This gave birth to a movement that attracted tremendous international attention, but faded after a relatively short but forceful campaign. From its hesitant birth on the streets of the Cape Flats in mid-1996, People Against Gangsterism and Drugs (Pagad) evolved into a powerful entity that seriously challenged the fledgling non-racial democracy. It drew on elements in Islamic religious sources such as the Quran and practices of the Prophet Muhammad (*sunnah*), without regard to historic context, to emphasise the believer's imperative to take direct action to achieve a morally just society. Pagad roused Muslims into action and castigated those who questioned its methods. While Pagad's approach attracted 'reformed' drug addicts and ex-gang members, its tactics provoked the opposition of many, including Muslims, who were branded 'hypocrites' (*munafiqun*), a severe accusation in Islamic ethics, or 'religious gangsters' (*Cape Argus* 22.09.98).

The abolition of the death penalty, tighter rules governing police behaviour, and perceived corruption in police services in post-1994 South Africa contributed to the perception among ordinary South Africans that crime was soaring. In 1996 a loose grouping of Muslims marched, alongside other activists, on Parliament and the house of the then Minister of Justice, the late (Ab)dullah Omar, a resident of the Cape Flats. Chanting 'Who are we? We are People Against Gangsterism and Drugs'; they called on government to show its commitment to the masses by putting an end to gangs and drugs, the scourge of the people (Jeppie 1996a:15). Pagad achieved international publicity when notorious gang leader Rashaad Staggie was pulled from his luxury 4x4 vehicle in August 1996, shot, and set alight in full view of dozens of policemen and the public. The gruesome public murder was captured on television and shown throughout the world. The Staggie twins, Rashaad and Rashied, controlled the Hard Livings gang from their tavern *Die Hok* in Manenberg. When they were released from jail in the late 1980s, they moved beyond the

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localised drug dealing of Manenberg to control drug-trafficking networks across the Western Cape (*Mail & Guardian* 2.08.02). The murder of Rashaad Staggie propelled Pagad, and the issues that it was raising, to the front pages of newspapers, not only in the Western Cape, but throughout South Africa.

Pagad's novelty lay in its tactic of direct action, which included spectacular public performances and militant rhetoric. The first few marches attracted around a thousand protesters. Organisers held mass meetings at a mosque, prayed collectively to prepare marchers psychologically, and then marched to the homes of alleged drug dealers, displaying an array of firearms. Pagad gained Muslim support by embracing Islamic slogans, dress and rhetoric; it evolved from mass public protest to reliance on small secretive cells once police curtailed public protest because of safety issues. Small cells of activists, called the G-Force (G purportedly standing for 'guard') protected the leadership and, it is alleged, carried out attacks on drug dealers. According to journalist Mark Gevisser, the G-Force, consisting of 'armed keffiyeh-clad *mujahedin* brought to the Flats an intifada image calculated to instil both fear and romance' (*Mail & Guardian* 16.08.96). Firebombs and armed attacks on the homes of alleged drug-peddlers and opponents became the norm.

Due to its Muslim face, the police and media sought explanations for Pagad's rise in global Islamic fundamentalism, portraying it as an extension of militant Middle East groups like Hamas and Hezbollah, or an agent of Libya and Iran (Tayob 2002). One reason for this association was the presence of seasoned Qibla members within Pagad. Qibla, formed in 1981 by Achmat Cassiem, shortly after the Iranian Revolution, is a fringe but vociferous Muslim political grouping originally allied to the Pan Africanist Congress (PAC). Cassiem advocated 'international Islamism', which sought a worldwide Islamic revolution (Pillay 2003:298). Although Qibla exerted internal pressure on Pagad leaders, and it was said that Ali Parker, Mansoor Jaffer, and 'Commander' Aslam Toefy resigned because of such pressure (*Mail & Guardian* 5.12.97), support for Pagad was the product of local social and economic problems. Pagad waged war on drug lords and gangsterism, which were of concern to Muslims and non-Muslims alike. The estimated 137 gangs in the Cape Peninsula, with their approximately 100 000 members, are responsible for around 60 per cent of violent crime, and a large proportion of muggings, break-ins to houses and cars, and theft from warehouses. A *Mail & Guardian* report concluded that, 'gangs have largely replaced council authority and filled

the vacuum left by the lack of jobs, social services and recreation facilities. Being part of a gang brings a sense of belonging, power and material goods' (2.08.02). Pillay (2003) argues that the impulses that led to the formation of Pagad date back to the mid-1980s with the formation of anti-drug community organisations in Salt River, Bo-Kaap, Surrey Estate, Athlone, and Wynberg.

Pagad spawned unprecedented levels of violence on the Cape Flats. Bombings and shootings became common, as gang members retaliated by embarking on a systematic programme of killing Muslim businessmen and professionals who supported Pagad, while petrol bombs were hurled at mosques in Kensington and Mountview during 1996 and 1997 (Jeppie 1998). A popular slogan among gang members was 'one shopkeeper, one bullet' (Pillay 2003:301). Ordinary people normally outside the regular circuits of gang violence were drawn into the conflict. Pagad altered the texture of social life and civil society in the Western Cape. While it emerged within civil society, and mobilised across class and religious lines, Pagad's tactics undermined public life by destabilising civil society. While exploiting the new democratic civic space to mobilise support, Pagad increasingly employed anti-democratic measures against its opponents. A reign of fear impoverished civil society as Muslims and non-Muslims alike were silenced. Pagad did not enjoy universal support among Muslims. In particular, it had a troubled relationship with the Muslim Judicial Council (MJC), Imams like Rashied Omar of Claremont Mosque and Shaykh Moerat of Muir Street Mosque, as well as academics like Ebrahim Moosa of the University of Cape Town, who were critical of its *modus operandi* (Baderoon 2003). There was a grenade attack on Sheikh Nazeem Moahmed of the MJC, death threats against Imam Sadullah Khan, and a pipe bomb attack on the home of Ebrahim Moosa. Khan and Moosa subsequently emigrated to the USA.

The police were ambivalent when killings were confined to gang members, but actively pursued Pagad when from 1998 its pipe-bombing campaign targeted restaurants, police stations and courts in white Cape Town. In the first ten months of 1998 there were 80 pipe bomb explosions in the Western Cape, which killed 11 people, a further 165 incidents of urban violence attributed to Pagad, and 437 incidents blamed on gangs (Pillay 2003:308). The bombing of Planet Hollywood restaurant in 1998 received widespread international publicity, and impacted negatively on the Cape as a holiday destination. Despite the state's determination to crack down, the police were largely ineffective.

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There were 600 cases of unsolved urban terrorism by 1999. The courts routinely dismissed cases because of lack of evidence or seriously flawed investigations (*Cape Times* 12.04.99). Anti-crime campaigns such as 'Operation Recoil' during 1996 and 1997, and 'Operation Good Hope' from 1998 to 2000, received massive funding, and involved both police and soldiers, but the violence continued unabated.

The police changed strategy in 2000. They focused on neutralising Pagad by arresting its key leaders. This had the desired effect as the movement unravelled over the next two years. The first sign of trouble was the resignation of Pagad's Chief Commander, Aslam Toefy, in November 1997. Pagad leader Abdus-Salaam Ebrahim, former spiritual leader Abdurazak Ebrahim, and member Moegsien Mohammed, were acquitted of murder in the Rashaad Staggie trial, but marginalised in March 2002 when they were found guilty of the lesser charge of public violence (*Mail & Guardian* 8.03.02). The state relentlessly pursued the leadership through legal channels. Pagad was exhausted through these lengthy and expensive cases. Key figures were apprehended, and eventually a number of them were found guilty and incarcerated. The movement was neutered in this way. Pagad's was a bold, if reckless, attempt to address a problem with deep roots in the Cape Flats. Its methods created ambivalence among the rank and file, which prevented it from developing a genuinely multi-religious, cross-class, ethnically mixed support base. The response of the state, to target the leadership without necessarily eliminating Pagad, was successful. The arrest of leaders stalled Pagad's momentum, and thwarted its ability to carry through campaigns of civil disobedience.

There are intermittent signs of Pagad organising an event, but these are negligible. The effective demise of Pagad gave space for the ordinary and everyday life of the Muslim community of the Cape to continue without much drama. The two radio stations, Voice of the Cape and 786, continued their programming, and have remained at the core of the search of many households for Islamic education, information about the broader Islamic world, and a platform for ordinary Muslims to have their voices heard through various call-in programmes. Apart from the monthly newspaper *Muslim Views*, print media have largely disappeared among Muslim organisations in the Cape. With the demise of Pagad, other trends have been building up – the growth and influence of neo-Sufi groupings throughout the Cape, such as the Alawi and Tijanniyya, and stronger emphasis on religious education for

children as well as adults, as reflected in the growth of private Muslim schools, and after-school and weekend religious classes. Even a few former whites-only schools offer after-school Islamic classes.

This brief overview of developments within Islam in the Western Cape during the past decade will conclude by alluding to several intellectuals who attempted to provide an alternative narrative of Islam and what it means to be a Muslim in contemporary South Africa. Ebrahim Rasool, Ebrahim Moosa, Farid Esack, Rashied Omar, and Abdulkader Tayob, all based in the Cape, espoused what they called a 'democratic' Islam, one that was willing to participate within secular groups and was 'forward-looking', in contrast to the *Ulema* who were seen as representing 'traditional Islam'. These intellectuals saw democratic Islam as nationalist, while traditional Islam, with its gaze towards an international *ummah* was seen as 'utopian, un-South African', and out of touch with South African social, economic and political realities. Democratic Islam respected diversity and accepted that Islamic values were among a number of value systems that co-existed in a politically plural dispensation (see Esak 1997). Rashied Omar, Imam of the Claremont mosque, broke new ground by accommodating women during communal prayers and even allowed a woman to give the sermon during the Friday prayer. However, Tayob has since moved to Leiden, Esak has served on the Gender Commission and spent time on sabbatical in the USA, while Moosa moved to Duke University shortly after his house was bombed in July 1998, allegedly by Pagad because he had criticised it (Pillay 2003).

### ***'Turning to the core': Indian Islam in KwaZulu-Natal***

#### ***Historical background***

The majority of Indians arrived between 1860 and 1911, either as contract indentured workers or traders who came on their own accord from Gujarat on the western coast of India. Aside from obvious differences of class, traders and indentured migrants were divided by religious tradition, caste, language, ethnicity and culture, as they were drawn from a range of ecologies and modes of production (see Vahed 2001a, 2001b, 2002). Many traders made their way to the Transvaal and the Cape from the early 1880s, where they remain the predominant element among Indian Muslims. Traders did not attempt to forge a broad Muslim community on the basis of Islam, but formed class

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alliances with Hindu traders to protect their economic and political rights. The most important identity in the political realm was race because the emergent white state separated Indians legislatively into a discrete racial category. Use of the appellation 'Indians' inferred that the attribute 'Indianness' united them as a collectivity against whites and Africans (Bhana 1997:100).

The coming to power of the National Party (NP) in 1948 had paradoxical consequences. Segregation intensified, but in 1961 Indians were finally recognised as permanent citizens. The expansion of educational opportunities and economic mobility from the 1960s had important consequences. Younger, better-educated Muslims challenged traditional conceptions of Islam at the same time that conservative *Ulema* began to emerge as an influential factor shaping local Muslim communities (Vahed 2000b). Residential clustering through the Group Areas Act allowed Muslims to practice Islam in a value-friendly environment (Vahed 2000b). Free and compulsory education from the 1960s transformed Indian society. The number of candidates who wrote the final year secondary school examination increased from 2 623 in 1968 to 10 449 in 1984 (Naidoo 1989:116). Coupled with the opening of the University of Durban-Westville (1963) and expansion of the ML Sultan Technical College, mass education led to economic mobility, and helped reshape conceptions of self and religion. It gave Muslims direct access to the printed word, and cultivated debate and formulation of clear statements of belief that illuminated sectarian distinctions. Differences became cemented as Islam became a subject to be explained and understood rather than assumed (see Eickelman 1992).

Islamic revivalism manifested itself among all sectors of Muslim society in Durban from the 1960s. Three broad traditions emerged – modernist, Deobandi and Sunni. Younger Muslims drew inspiration from thinkers like Muhammad Iqbal (d. 1938) and Sayyad Qutb (d. 1966) who attempted to marry Islamic and secular knowledge. Organisations like the Muslim Youth Movement (MYM) promoted an intellectual approach in order to make Islam meaningful in the day-to-day lives of Muslims. They enjoyed support among students and some professionals (Jeppie, forthcoming). The Muslim masses, however, embraced conservative tendencies that came to be termed 'Deobandi' and 'Sunni'<sup>2</sup> (Vahed 2000b).

### *Post-apartheid period*

Non-racial democracy resulted in massive social, political and economic change. The new African National Congress (ANC) government did not support an Islamic worldview, but legalised abortion, prostitution, and pornography. This was compounded by affirmative action policies, the African Renaissance agenda of the ANC, and the impact of globalisation. These changes triggered important behaviour modification among large numbers of Muslims. The most striking transformation has been the growth of personal piety and growing tolerance between the Deobandi and Sunni traditions. There is a staggering increase, for example, in the numbers of women who cover their faces with a veil; there is greater concern with observing dietary regulations; televisions have been rooted out from many Muslim homes; and there has been a dramatic growth in Muslim schools. Theological debate is virtually absent. Truth has become synonymous with the *Ulema* and to question the *Ulema* means questioning the truth. Another conspicuous feature of the new Islam is self-reformation. An increasingly number of Muslims are becoming attached to *Shaykhs* (spiritual mentors) in their search for personal stability and guidance (Vahed 2000a).

The last decade has also been witness to the arrival of economic migrants from South Asia. They are visible as chicken vendors, or running cellphone shops and other small businesses in places like Durban and Lenasia. Anti-immigrant discourse among Indians has given rise to xenophobia and stereotypes, particularly against those from Pakistan, who are seen as dishonest, as living in overcrowded apartments, undercutting local traders, and engaging in false marriages to obtain passports (including marriage to African women). It remains to be seen whether these are marriages of convenience or mark the beginnings of a breakdown in race barriers. Themba Ndebele of Home Affairs in Pretoria was certain that 'most of these men – after getting South African citizenship – go back home to collect their lawful wives, leaving the local ones miserable' (*Pretoria News* 23.10.03).

### *Black African Muslims*

The number of African Muslims has increased from 9 048 in 1980 to 74 701 by 2001. They now make up almost 12 per cent of South Africa's Muslims as opposed to 2.5 per cent in 1980, and yet they 'remain on the margins of

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Muslim community life' (Sitoto 2002:44). This increase is due to factors such as the conscious decision of many township youth to embrace Islam during the 1980s; students going into exile in Malawi and Mozambique after 1976, where they came into contact with Islam; and the involvement of organisations like the Islamic Propagation Centre International (IPCI) in townships. IPCI president Ahmed Deedat translated the *Quran* into Zulu (Fakude 2002). In contrast to other parts of Africa where migrant Arab traders were instrumental in locals embracing Islam, in South Africa, Indians have largely remained isolated from Africans, who have historically viewed Islam as an Indian, and exploitative, religion because of its close association with traders (Vawda 1993).

The arrival of 112 freed slaves from Zanzibar in 1873 laid the foundation of African Islam in Natal. In local parlance they came to be known as 'Zanzibaris', a term applied generally to all African Muslims. Officially they have been transformed by successive white governments from 'freed slaves' to 'Bantu', 'Coloureds', and finally 'Other Asians'. They settled around the King's Rest mosque on Bluffs Road. After the NP came to power in 1948, Bluff was declared a white area and Zanzibaris, who distinguished themselves from non-Muslim Africans, were categorised as 'Other Asian' and placed in a separate section of the newly-built Indian township of Chatsworth (Ooshuizen 1982).

Since the early 1990s, refugees – mainly political exiles from the DRC, Burundi, Rwanda and Malawi – have augmented the African Muslim population in Durban. Concerned about the economic plight of migrants, a Refugee Relief Programme was instituted by local Muslims in 1996 to provide food and shelter. Kathrada (2001) reported that most of the refugees were between ages 20 and 30, educated, overwhelmingly male, and many had spouses in their home countries. He found that 94 per cent of refugees felt well treated by Indian Muslims; their major complaint was that they were not considered 'true Muslims' even though they were fluent in Arabic and several had trained as *Imams*.

Islam's presence in Soweto strengthened from the late 1970s with the arrival of economic migrants from Malawi and Mozambique. Soweto's first mosque was built in Dlamini, which remains the heart of Soweto Muslim community life. It was the scene of the first blast when right-wing extremists rocked

Soweto with nine bombs on 29 October 2002 (*Mail & Guardian* 30.10.02). In Soweto, too, there is a negative association between Islam and Indians. Salama Motsoatose, a Sotho woman who embraced Islam in 1971, told reporter Emeka Nwandiko that there was a perception that Islam was an exclusively 'coolie thing...It is difficult to be a Muslim because people think we've been colonised by Indians'. Her son Abdulazeez added that 'most blacks don't like Indians. As employers they do not treat blacks fairly. Blacks wonder why we are following an Indian church' (*Mail & Guardian* 5.03.99).

In Johannesburg, relations between refugee and Indian Muslims are tense. The Africa Muslim Agency (AMA), which was assisting refugees with food parcels, suspended its aid in January 1997. Somali refugees claimed that Indians were racist and showed a bias towards Tunisians and Algerians. Aid organisations, on the other hand, cited limited resources and the greed of refugees as causes of the tension. AMA spokesperson Yusuf Seedat said that, between 1994 and 1996, the food relief budget had escalated from R6 000 per month to R40 000 per month, which was beyond the capacity of his organisation. An AMA aid worker added, 'We go up in Africa and find people who don't have flesh on their bones, and here we are abused by Somali fat cats' (*al-Qalam* February 1997).

Islam spread in the Western Cape through the pioneering work of Imam Abdullah Haroon who broke the law by entering townships during the 1960s. One of the highest profile individuals to accept Islam was Hasa Gila, a founding member of the PAC (MMC 2002). The 1980s and 1990s were marked by careful expansion, with the opening of Islamic schools and the Jihad Centre in Guguletu, controlled by the youth organisation *Al-Jihad*; study circles in Khayelitsha by Hadji S Bayat and Mrs Faika Kriel; and a Shia centre in Phillipi (MMC 2002). The training of locals in Islamic theology raised the quality of Islamic teaching in townships and reduced their dependency on Indian and Malay teachers and theologians. Abdullah Nonyana was the first African to study abroad when he went to Kuwait in 1981, while Ismail Gqamane and Shaykh Jamiel Kobus graduated from Madinah University in 1997 (MMC 2002). An umbrella body, the Masakhane Muslim Community (MMC) – *Masakhana* meaning 'building one another' in Xhosa – was formed in 1997 to unite township Muslims, provide 'coherent leadership and direction, arbitrate disputes and provide quality education'. In 1999 Cassiem Gqamane was appointed President (*Amir*), while Abdullah Quick, Director of the Da'wah Department of the

MJC, was appointed 'special advisor' to any Muslim in the township (MMC 2002:51). The dual role of Abdullah Quick in the MJC and MMC suggests formal co-operation.

African Muslims are debating the relationship between what scholars has variously been referred to as 'developing Islam' and 'established Islam' (Fakude 2002:47); 'the emerging and unorganised African Muslim sector' and 'established sector' (Sitoto 2002: 43); or 'historically imported' and 'historically indigenous' Muslims (Rafudeen 2002: 59). It irks many Muslims in townships that, while their economic and social needs have not been met, there is swift reaction to the plight of Muslims elsewhere in the world. Aid, in the form of cash, food and medical supplies, has been provided to Bosnia (1997), Gujarat (2002), Palestine, Algeria (2003), Afghanistan (2002), and Iraq (2003).

An example of this tension was the plan by the mainly-Indian Muslims of Houghton, an affluent suburb north of Johannesburg, to build the King Fahd Grand Mosque at a cost of \$15 million. 'Uncle Sid' Sadrudeen of Soweto led a campaign against the Centre in 1999, arguing that instead of building extravagant facilities for the rich, the money should be used to equip poorer areas like Soweto where worshippers had to be bussed to Dlamini mosque from Klipspruit, Rockville and Meadowlands. Sadrudeen branded this 'financial apartheid'. The project was put on hold even though the foundation stone had been laid by Saudi Crown Prince Abdullah bin Abdel-Aziz during a state visit to South Africa in 1999 (*Mail & Guardian* 8.10.99).

For their part, the Islamic Dawah Movement, IPCI, African Muslim Agency, Al-Ansaar Foundation, and other Muslim organisations point to the many projects they are involved in across townships in South Africa. The problem, however, centres around ownership – those in townships want to implement projects relevant to them, rather than leave the decision-making to others. One respondent described how dependency forced African Muslims to constantly change their Islamic identity:

We are the have-nots. They are the haves, they support us with food yearly, pay our electricity, and all that... On Tuesdays you have to be a Tablighi and wear a long kurta and speak about the Hadith. Why? Because you need something from that guy. Then the following day you have to change from Tablighism to Sunnism

because they are giving something. On Sunday, then you have to go to Soofie Sahib to ask for dholl and other things. If you are not a Soofie, he won't give you...It's a push. (Vawda 1993:61).

There remain problems in townships – the most significant being the lack of facilities, mosques, and *madrassahs*, in a climate of poverty and employment. As racial tensions developed, some African Muslims boycotted 'Indian' mosques, while a group marched to the Union Buildings, and submitted a letter of complaint to President Thabo Mbeki in 2002. Their grievances included racism, exploitation, and unfair distribution of charity (*zakaat*) collected from Muslims during the fasting month of *Ramadaan* (Fakude 2002).

#### *Seeking an indigenous voice: black African Muslims*

African Muslims are wrestling with the notion of being African and Muslim. Recently arrived refugees constitute a nascent grouping; others like Advocate Dawood Ngwane of the IPCI and Cassim Modise of the Islamic Dawah Movement are working through existing organisations to bridge the gulf between Muslims in the 'centre' and 'periphery'; a third and growing tendency has shunned the paternalism of existing organisations, and is seeking to forge an independent identity rooted in Africa. Sitoto has noted that South Africa is the only country in Africa where Islam is not 'in concert with the socio-cultural experience of the African Muslims, in tune with the local environment' (2002:47). He feels strongly that African Muslims should not be regarded as a charity case. Those living in poverty in townships, he said, are like millions of township dwellers across the country for whom poverty is the norm. Sitoto rejected 'condescending discourse' about African Muslims and called for a 'Muslim identity that has its home in Africa rather than seek shelter in a misplaced pan-Islamic rhetoric' (Sitoto 2002:45-46). Amir Yusuf Jakubeni of the Katlehong Islamic Foundation, told *Pace* magazine (June 1997) that, 'for too long leadership has been monopolised...we want to develop our own values and own interpretation'. Nceba Salamntu, deprecated the Indian influence on African Islam:

Indian Muslims have built mosques, assisted financially and materially, and through their monopoly of Muslim educational institutions have managed to impose an Indian expression of Islam on

others...It is cultural imperialism. Indian people are proud of their culture and identity even in the diaspora, why can't we be so in our motherland? (*Al-Qalam* February 1997)

The Organisation of African Muslim Unity (OAMU) was formed in KZN in 1997, to achieve 'self-empowerment and assist African Muslims to become organised and focused' (*Muslim Views* July 1997). Vice Rector of the Islamic College of South Africa, Auwais Rafudeen (2002:58-59), called for Islam 'to be Africanised'. He wanted Muslims to 'be thoroughly aware of African history and traditional African culture'. He said that Muslims existed in particular cultural milieus, and while they should shed those beliefs considered 'un-Islamic', the cultural aspects of identity should be maintained. A pristine 'Muslimhood' remains elusive. To 'Africanise' Islamic identity did not mean wearing Madiba shirts, but changing mindsets to understand African culture and worldview, and incorporating it where there was no contradiction with Islamic law. Rafudeen wanted Islamic schools to teach African languages and culture. He called on the *Ulema* to circulate pamphlets, arrange lectures, and circulate information campaigns that underscored Islam's abhorrence of racism.

Some organisations and individuals are addressing this problem. During the latter half of 2003, for example, the KZN *Jamiat* published articles such as 'Combating the monster of racism', 'Islam and racism', 'Smashing the idol of racism', and 'Racial equality' on its website. The Anti-Racism Forum has conducted workshops to educate Muslims. In December 2003, the MYM, held an anti-racism education workshop, while in January 2004 the KZN *Jamiat* held a similar workshop. On 19 March 2004, as part of Human Rights Day celebrations, mosques across KZN focused on anti-racist education during their Friday *Khutbahs* (lectures) (*Al Qalam* December 2003).

### 'Liberated zones'

Many Muslims have made use of South Africa's new political freedoms and its liberal Constitution to pursue their distinctive rights. For many, this is part of a broader programme of introducing tighter Islamic codes in public and private domains. Roy refers to this as the creation of 'liberated zones', that is, forming spaces where the ideals of a future society can be implemented, but where 'no counterpower is established, no counterstate' (1996:80). The cre-

ation of 'liberated zones' does not imply animosity to the state nor is there a serious proselytising aspect to it.

One example is *shariah*-based Muslim Personal Law (MPL), which is arguably the most important development over the past decade, particularly with regard to the rights of women. The Constitution recognised 'personal or family law' provided it was in accord with other provisions of the Constitution. The South African Law Commission (SALC) project committee, headed by Supreme Court Judge Mohamed Navsa, released a draft Bill on Islamic marriages in December 2001. Journalist Khadija Magardie described the draft Bill as 'a progressive step towards resolving the mismatch between Muslim personal law and the Bill of Rights... While it is good news for some, its contents are likely to have some quarters sighing into their three-fists long beards' (*Mail & Guardian* 7.12.01). Magardie was referring to the fact that aspects of the Bill, such as the requirement that a man wanting to marry a second time had to obtain the permission of a civil court, were rejected by Muslim judicial bodies. Muslims are deeply divided over the Bill. Some have welcomed its commitment to gender equality, others accept that aspects of it are problematic but are willing to work from within to effect change, and yet others have rejected it totally because they believe that the Law of God supersedes man-made laws. *Al-Haq* of Port Elizabeth, for example, claimed that a committee 'consisting of modernists, liberals, and females has assumed the responsibility to impose on the Muslim community a measure which the majority of *Ulama* have outrightly rejected as being in conflict with *Shariah*' (February 2004). MPL is heavily contested among Muslims.

Finance and investment is another area in which Muslims have attempted to introduce Islam into their personal lives. Most Muslims try to avoid participating in interest-related economic activities. *Ulema* who prohibit participation in pension funds, insurance, medical aid and unit trusts and so forth, realise that substitutes have to be provided for Muslims to participate in the modern economy, and are pioneering efforts in *shariah*-compliant finance. The Albaraka Bank, started in 1989 by South African investors and the Saudi-based Dallah Albaraka Bank, has developed a range of *shariah*-compliant investment and financial products. Albaraka does not invest in the shares of companies involved in gambling, non-halaal food, alcohol, or interest transactions. The rules governing fund investments and banking principles were established by a *Shariah* Supervisory Board comprised of

Islamic legal scholars from throughout the world (Joosub 2003). Albaraka's growth has been exceptional; at the end of 2003 its assets stood at R700 million. However, stringent criteria governing loan arrangements, which are more onerous than most commercial banks, mean that it is mainly the affluent who are able to take advantage of Albaraka's services. The Cape Town-based Muslim financial services company, Oasis, is Albaraka's major competitor. For example, when Albaraka Equity Fund won three 'Raging Bull Awards' for being the top performing general equity fund for the three years ending December 2003, the Awards ceremony had to be postponed because Oasis objected that Albaraka contravened the rules by moving away from its original investment mandate when it became *sharia*-compliant (*Independent on Saturday* 17.01.04). Though the Association of Collective Investments overruled the objection, this incident shows that being Muslim does not diminish competition (*Independent on Saturday* 31.01.04).

Islamic media – radio, magazines, websites, books and newspapers – have mushroomed over the past decade. Monthly newspapers like *Majlis*, *Al-Haq*, *Al-Ummah*, *Muslim Views*, *Al-Jamiat*, and *Al-Qalam*, reflect different, and contested, shades of opinion among Muslim. Muslim magazines like *KZN Islam* and *The Muslim Woman* provide alternatives to mainstream women's magazines, and project images of the ideal Muslim woman. Islamic story-books are freely available for children, as are tape cassettes and CDs of Islamic songs. These include nursery rhymes and songs for younger children, as well as songs dealing with current international events. Songs are not accompanied by music, which is considered *haram* (forbidden) by many Muslims. Virtually every Islamic organisation, including theological institutes, have set up websites that cover the latest developments in the Islamic world, as well as theological issues. Many of the websites are interactive, and the Muslim public is free to communicate online for *fatwahs* (religious decrees) or advice. Radio stations have grown from strength to strength. Some target local and regional markets, such as *Al-Ansaar* in Durban, Radio 786 in the Cape, and Radio Islam in Johannesburg. The Johannesburg-based Channel Islam International (CII), which started broadcasting in October 2000, is an international station broadcast to over 60 countries across Africa, the United Kingdom and Europe. Its aim, shared by much of the new Islamic media, is 'to bring Muslims around the world into the information age, to use the fruits of

the twenty-first century to provide high quality Islamic content designed to sow the seeds of religious education and growth as tools for upliftment and empowerment'.<sup>3</sup> CII is managed by professionals with expertise in information technology, marketing, law, and finance, but the overall content is supervised by Islamic scholars. The 'new media' is playing a crucial role in forging and reaffirming a broader Muslim identity internationally across the boundaries of sectarian and national divisions through, for example, the live broadcast of the funeral of Hamas founder Sheik Ahmed Yassin, who was murdered by the Israeli government in March 2004, interviews with Muslims subjected to harassment in the West, and other such coverage. This re-imagining of identity is not neutral. The 'new' Muslim media is controlled by hegemonic groups among Muslims, usually conservative and monied, who are playing a key role in implanting a common perspective consistent with their normative outlook.

#### *Gender: making space for women*

There have been contradictory tendencies regarding the position of women. On the one hand, far more women are fully veiled and wear loose-fitting black garments, even though Muslim jurists disagree over whether Islam requires women to cover the face. The position of the KZN *Jamiat* is that 'due to the immorality of the times and weakness of resistance, it is compulsory for a female to cover her face which is the focus of her beauty' (*Al-Mahmood* July 99). By 'veil', *Ulema* mean the total seclusion of women from public spaces and not merely the covering of their faces. The story of the Johannesburg-based Radio Islam is illustrative. It was granted a licence to broadcast for one month during January 1999. Contrary to the Broadcasting Act, which makes it mandatory for women to comprise one-third of management, the station excluded women from its management and did not allow female voices to be heard over the air. Members of the public lodged a complaint with the Independent Broadcasting Authority (IBA). The hearing to consider the renewal of Radio Islam's licence was attended by several hundred Muslim women, fully covered from head to toe, presenting a very powerful image. Radio Islam management remained adamant that to allow women to speak on radio would be a violation of Islamic beliefs and practices, but in order to renew its licence, the station was forced to allow women access to the air for four hours each day (*Sunday Independent* 7.02.99).

The attitude of many parents towards education, particularly in KZN and Gauteng, has changed as part of a gender counter-revolution. These parents no longer consider it desirable for girls to receive secular education beyond a certain age, if at all. Secular education, according to the KZN *Jamiat*, was placing pitfalls in the path way of 'sincere Muslim woman, wanting to follow the pure and pristine Islam of the last 1 400 years. Our young Muslim sisters at schools, colleges, and universities are exposed to dangers all the time. A Muslim lady needs to acquaint herself much more with the correct teachings of Islam than ever before' (*Al-Jamiat* December 98). Girls are either sent to Muslim schools, which combine secular and religious education, or Islamic schools, where the syllabus comprises Arabic, Urdu, and Islamic jurisprudence, supplemented by English and mathematics to Grade 7.

A countervailing tendency has been that of some Muslims challenging the authority of traditional *Ulema*, debating issues relating women's rights in Islam, including MPL and attendance at mosques. One of the leading activists was Shamima Shaik, who was National Co-ordinator of the Muslim Youth Movement's Gender Desk (93-98), editor of the progressive Muslim monthly *al-Qalam* (96-97), Chairperson of the Muslim Community Broadcasting Trust in Johannesburg (95-98), and founder of The Voice radio station. Together with her husband, Naeem Jinnah, she authored *Journey of discovery: A South African Hajj*, a personal story of their pilgrimage (*Hajj*) to Makkah. The book examines issues of gender and power in Islam, and the attempt to reconcile social activism with traditional faith. Sadly, Shamima Shaikh died of cancer in January 1998.

Another recent example of the division around women's rights was the 'Family Eidgah', a prayer meeting held on an open field at the Durban beachfront in November 2003 during the festival of Eid. On 29 October, the KZN *Jamiat* informed the organiser that women should not attend because it would be impossible to meet stringent conditions such as the complete separation (*purdah*) of men and women, and women abstaining from the use of perfume in the presence of men. The *Jamiat* had no doubt that if the Prophet had 'seen the condition of women today, he would have prevented them from attending'. The organiser responded by challenging the *Jamiat* to a 'public debate once and for all on this issue'. He cited Islamic sources to argue that women were permitted to participate in prayer at mosques and accused the *Ulema* of 'attempting to enforce your oppressive Indo-Pak, male-dominated,

cultural norms on the Muslim community under the guise of theological legality! Though, clearly, elements among Muslims are willing to challenge the authority of traditional *Ulema*, the birth of the 'new' Muslim woman and the end of patriarchal ideology are not in immediate sight.

### *9/11, the 'war of terror' and conflict in Palestine*

Although most Muslim organisations condemned the attacks on the World Trade Centre and Pentagon on 11 September 2001, in certain quarters local Muslims were deemed culpable. Shortly after the attacks, journalist Marianne Merten (*Mail & Guardian* 21.09.01) wrote that 'Muslim "harassment" "was linked to rising Islamophobia'. The MJC in Cape Town was subjected to very abusive calls and an arson attack, while Muslim organisations, community radio stations and newspapers across the country received hate mail. While Sheikh Achmat Sedick, secretary general of the MJC, said that his organisation would overlook the abuse 'to avoid the confrontation some appear to be wanting', fringe groups like the Islamic Unity Conference (IUC) propagated conspiracy theories about who might have caused the attacks or blamed American foreign policy for triggering the attacks (Tayob 2002:22). While South African *Ulema* agree that Islam forbids suicide bombings, speaking on Channel Islam on 11 September 2003, Imam Quick and Mufti AK Hoosen explained that random suicide bombings were prohibited, but that *Ulema* internationally distinguished between random bombings like 9/11 and the conflict in Palestine. Palestinians were regarded as victims of Israeli aggression and their actions were branded legitimate martyrdom operations under occupation and warlike conditions.

Sympathy for the USA over 9/11 dissipated when it attacked Afghanistan on 7 October 2001. Together with the Congress of South African Trade Unions (Cosatu) and the Western Cape Council of Churches, the MJC organised a peace march of around 5 000 people on 11 October 2001. However, in response to calls by fringe groups, like Abduraghman Khan's little-known Muslims Against Illegitimate Leaders, for a *jihad* against the 'infidel', mainstream bodies like the MJC, as well as those regarded as 'pro-Taliban', urged Muslims to respect South African law, which prohibited military assistance to any foreign country unless authorised by the state (*Mail & Guardian* 12.10.01).

## MULTIPLE COMMUNITIES

Like the 'war on terror', the Palestinian *intifada* spawned important debates. According to Naeem Jeenah, MYM President and member of the Palestinian Solidarity Committee, the participation of the South African Communist Party (SACP), Cosatu, as well as non-governmental organisations like the Anti-Privatisation Forum in pro-Palestinian protests strengthened inter-faith solidarity, and dispelled the myth that the struggle of the Palestinians was a Muslim cause. Jeenah felt that participation in multi-faith protests broadened Muslim concerns to include the problems of the landless and negative impact of privatisation in South Africa (*Mail & Guardian* 12.04.02). In the Cape, the MJC supported the *intifada*. In March 2002, Secretary General Ighsaan Hendricks said that the MJC recognised Palestinian groups 'as legitimate freedom fighters. We view them in the same light as people view the role of the ANC and PAC in the liberation struggle of this country' (*Cape Argus* 14.03.02). Qibla was more defiant. A march to the American Consulate on 28 November 2002 was led by two young boys dressed as suicide bombers, wearing Hezbollah headbands and dressed in black with cardboard dynamite sticks strapped to their chests. Marchers shouted slogans like 'death to America, death to Israel' and 'one American tourist, one bullet'. The MJC branded the use of children 'irresponsible' (*Cape Argus* 29.11.02).

In Durban, the impetus for response to events in the Middle East was led by the Palestinian Solidarity Committee. There were tensions from the outset because the committee was home to individuals from a variety of backgrounds, including academics Fazel Khan and Lubna Nadvi from the University of KZN, radio presenter and media personality Abie Dawjee, Zulekha Mayat of the Women's Cultural Group, as well as Mawlana's Walid and Essa. Areas of tension included the *moulana's* insistence that men and women march separately, which did not sit well with activists; certain members opposed public protest and advocated face-to-face meetings with the US Consul-General; and Muslim-owned businesses that stocked American products opposed consumer boycotts. An exasperated member exclaimed: 'We could put people on the streets, get media coverage, embarrass the government, but we could not build a movement'. Post-9/11 saw the erosion of Palestinian Solidarity Committee gains, as non-Muslim progressives who had supported the organisation did not support mobilisation against the US war in Afghanistan because of the nature of the Taliban. Afghani and Palestinian mobilisations had a different meaning and support base.<sup>4</sup>

The war on Iraq revived tensions. On 15 February 2003, South Africans joined millions of demonstrators in approximately 600 cities worldwide to protest against the impending war. Cosatu, the New Unity Movement, the Socialist League, and the MJC, as well as politicians Kader Asmal, Pallo Jordan and Ebrahim Rasool of the ANC, took part in an anti-war march in Cape Town; 3 000 people formed a human chain outside the US consul-general's office in Johannesburg; and around 1 000 marched in Durban. As many, if not more, non-Muslims participated than Muslims. During a programme on CII on 20 February 2003, many callers considered it shameful that while millions of non-Muslims worldwide were marching for a Muslim country, South African Muslims were conspicuous by their absence. Mainstream *Ulema* in KZN and Gauteng generally discouraged Muslim participation in marches. They attribute the weak position of Muslims to spiritual shortcomings rather than Western military superiority. Muslims were being punished by God because of their transgressions, they explained. When all Muslims acted according to a literal interpretation of the Quran and *shariah*, this would lead to the transformation of the Muslim World, to a just and perfect society, and Islamic civilization would regain lost ground in relation to the West. Public demonstrations were regarded as counter-productive as they led to the transgression of Islamic norms, such as the separation of sexes.

Thirty-two South African housewives, students, professionals, and activists – men and women, Muslims and non-Muslims<sup>9</sup> – volunteered as human shields in Iraq. They were organised by Abie Dawjee, National Co-ordinator of the Iraq Action Committee, and positioned themselves at civilian structures like schools, hospitals and water filtration plants. The human shields left on 18 March and reached Iraq around the time of the first attack on Baghdad. They provided firsthand reports in daily newspapers as well as live interviews on CII, giving graphic accounts of the suffering of ordinary Iraqis. Once bombing began, families pressured volunteers to return as they could not stop the war, and most returned to a heroes welcome on 1 April 2003 (*Natal Mercury* 2.04.03).

Whether they choose to protest publicly or not, most Muslims are convinced that George Bush is leading a global war against Islam. In an attempt to improve America's image among Muslims, US consulates invited prominent Muslims for lunch during the Eid festival in November 2003. Predictably, the invitations were declined because they were seen as a ploy to get local Muslims

to reject anti-American sentiments. The ongoing imprisonment of Muslims at Guantanamo Bay and attacks on the civil liberties of Muslims in the West, such as the headscarf ban in France, heighten the sense of injustice among Muslims.

Although the reaction of Muslims to international events is complex, the perceived 'Islamic threat' is given prominence in the local media. Journalist Max du Preez made unsubstantiated allegations of Muslim complicity in the attack on the Israeli-run Paradise Mombasa Hotel in Kenya on 27 November 2002, and questioned the loyalty of Muslim citizens to South Africa (*Star* 5.12.02). Martin Schonteich, senior researcher at the Institute of Security Studies in Pretoria, told the Crime Writers' Club that, while the white right wing was too divided and demoralised to constitute a threat, Muslim resentment against the USA and Israel constituted a great danger in South Africa: 'The threat of Islamic terrorism is linked directly to the rising fundamentalist sympathy in the Muslim community. Polarisation will see more radical sections within that community come to the fore, with even traditionally moderate Muslim leaders becoming increasingly outspoken' (*Citizen* 13.02.03). He also suggested links between 'Islamic fundamentalists' and organised crime. The MJC took umbrage with Schonteich's 'unsubstantiated and unwarranted' attack:

It is with total disgust that the MJC read the blatant, irresponsible and misleading statements about Muslims by Schonteich. For his own reasons Schonteich makes a very poor attempt at clearing the criminal intent of the Afrikaner right-wing elements and at the same time tarnishing the name of Islam and its followers. (*Cape Argus* 19.02.03)

Durban-based Mawlana Rafique Shah said that Schonteich was spreading 'rubbish' that was creating divisions between South Africans. 'No Muslim has any intention of taking over the state. We do not want power. Understand that. The white right-wing wants to take over the state. They have a motive. Muslims do not have such intentions' (*Daily News* 18.02.03).

There is little to support the typecasting of Muslims as 'extremists', 'fundamentalists' and 'terrorists' in the South African context. While the religious commitment of Muslims is ever deepening, Islamic resurgence is not a movement of political emancipation but one aimed at preserving and deepening religious-cultural identity. However, because of what is happening in the 'rad-

ical' face of Islam, there is a tendency to treat this assertion of Islamic identity with suspicion, misgivings, anxiety and fear (Ali 2000).

South Africa has not entirely escaped Islamophobia. Anti-Muslim discourse, however, should not be homogenised. As a result of political opposition to US hegemony, many South Africans, including large numbers of non-Muslims, have strongly opposed American actions through trade unions, civic organisations and tertiary institutions. Anti-Muslim sentiments in the press, for example, are dominated by white respondents, as well as non-Muslim Indians, perhaps reflecting current Muslim-Hindu tensions in India.

One area of concern for Muslims was the Anti-Terrorism Bill. Organisations such as the Islamic Medical Association, *Jamiatul Ulama* (KZN), MJC, *Sunni Jamiatul Ulama* (SA), MYM, Media Review Network, Association of Muslim Accountants and Lawyers, South African National Zakaah Fund, Africa Muslim Agency, and the Palestinian Solidary Committee, urged President Thabo Mbeki not to pass the bill: 'If the Anti-Terrorism Bill is passed here, no South African will be able to support in any way any of the liberation struggles presently being waged in many parts of the world. This is hugely ironic because virtually the entire world supported the South African freedom struggle.' Their letter, dated 11 November 2003, emphasised that groups like Pagad and the *Boeremag* had been apprehended without the Bill, on the basis of good police work and existing criminal laws. While conceding that the present Members of Parliament were sensitive to the struggles of oppressed people in places like Palestine, the danger was that:

years ahead from now, new people at the helm of government may not have this awareness. They will only see the letter of the law and may also succumb to outside pressure... The Anti-Terrorism Bill in other countries, especially the United States and Britain has terrorised innocent people, the vast majority of victims being Muslim. We are deeply dismayed and disappointed that our government could even contemplate such legislation. Mr President we urge you, sir, please do not take us back to the dark days of fear, suspicion and injustice. Please scrap the Bill.

### ***Muslims, politics, and the ANC***

Muslims have long debated whether to embrace the broader democratic movement or constitute an independent force. The Port Elizabeth-based *Majlis* (Voice of Islam) condemned co-operation with non-Muslims in anti-apartheid structures during the 1980s, because it meant working with 'polytheist priests and godless communists' (quoted in Moosa 1989:76). This was not the majority view. In the Cape, the Call of Islam's Moulana Faried Essack and Ebrahim Rassool were senior members of the United Democratic Front, and encouraged Muslim co-operation and participation in anti-apartheid organisations. Pressure from these activists resulted in the MJC declaring participation in the 1984 tricameral election juridically forbidden. The Natal *Jamiat* also called for a boycott of the election while the Transvaal *Jamiat* remained silent. The latter, in fact, never made anti-state political statements (Moosa 1989).

The debate over Muslim participation in the political process resurfaced during democratic elections in 1994 and 1999. The IUC, under Achmat Cassiem, which claimed to represent 600 Islamic organisations, called for Muslims to boycott the 1999 election. Cassiem argued that to vote in an un-Islamic state would make Muslims partners to legalised abortion, gay rights, prostitution, and other un-Islamic practices (*Daily News* 20.05.99). However, the majority feeling – articulated by mainstream Muslim organisations such as the *Jamiat*, the MJC, the United Ulema Council of South Africa and the MYM – was that Muslims should vote in the elections for a party of their choice (*Al-Qalam* May 1999). Both the Africa Muslim Party in 1994 and Africa Moral Party, purporting to represent Muslims, failed to gain representation in Parliament in 1999 as Muslims voted for predominantly non-Muslim parties (*Al-Qalam* May 1999).

Muslims, whether practising or nominal, have featured strongly in representative institutions since 1994, far out of proportion to their numbers. Past Members of Parliament have included Kader Asmal, Vally Moosa, and Dullah Omar; Essop Pahad is a key member of President Thabo Mbeki's office, Naledi Pandor was Speaker of the Council of Provinces until she replaced Kader Asmal as Minister of Education in 2004; her deputy is Enver Surti; Ebrahim Rassool was leader of the ANC in the Western Cape from 1994 to 2004, and appointed Western Cape Premier in 2004. In June 2004, ANC MP Ismail Vadi

was elected chairperson of the 17-member multi-party committee formed to consider Public Protector Lawrence Mushwana's report into his investigation of Deputy President Jacob Zuma's complaint against Bulelani Ngcuka and the National Prosecuting Authority relating to their corruption investigation against him; Dr RAM Saloojee and the late Ismail Meer featured at provincial levels; the late Justice Ismail Mohammed occupied the most senior legal position in the country, while Ms Gadija Khan was head of all magistrates in the Western Cape.

This was not matched by support for the ANC in 1994 and 1999. Voting patterns among Indians and coloureds suggest that many voted against the ANC despite the long history of oppression. The NP in 1994, and Democratic Alliance (DA) in 1999, exploited minority fears of the consequences of affirmative action and escalating crime to gain conservative support. The ANC failed to win elections in KZN and WC, provinces with significant numbers of Indians and coloureds respectively. Habib and Naidu attribute this to class rather than racial 'electoral homogeneity'. While affluent Indians and coloureds supported the ANC, lower-income individuals voted against the ANC because of economic 'rather than racial considerations. Since these classes constitute the largest single bloc within these communities, the class divide has the potential of manifesting itself as a racial divide' (Habib & Naidu 1999:198).

The 2004 election was marked by three important developments: the absence of debate about whether Muslims were permitted to participate in the democratic process; for the first time there was no Muslim party; and Muslims voted in large numbers for the ANC. This was connected both to local and global events. Locally, largely because of the stability of the past decade and economic prosperity of the middle and upper strata, Indian and coloured minorities are generally optimistic about the future. Globally, events since 9/11 have given rise to Islamophobia in many parts of the world. Across the mosques in South Africa, *Ulema* regularly acknowledge the absence of such Islamophobia locally, and also recognise with pride that South Africa takes an independent line on world issues. As a result, religious leaders have, openly and subtly, advocated support for the ANC. A panel discussion on Channel Islam shortly after the election date was announced, chaired by Moulana Essa of West Street Mosque and Rafick Hassen of the IPCI, urged Muslims to vote. While panellists said that it would be wrong to tell Muslims who to vote for,

they reminded Muslim voters that the DA was pro-Israel, and that in several instances DA councillors objected to mosques and madrassahs being built in predominantly white areas.

In the lead-up to the elections, the KZN-based *Sunni Jamiatul Ulema* placed an advert in a local newspaper disowning Moulana Rafeek Shah who had joined the DA; the *Sunni Jamiat*, with ten other Muslim organisations, also placed an advert calling on Muslims not to vote for the DA: 'Tony Leon of the DA has failed to condemn the murder of Sheik Ahmed Yassin, the war on Iraq, the war on Afghanistan, and the occupation of Palestine' (*Tribune Herald* 18.04.04). In the Cape the MJC provided guidelines on how Muslims should choose a party, which left Muslims with just one choice, the ANC (*Al Qalam* April 2004). In areas where Muslims live in significant numbers, there was an overwhelming victory for the ANC: from Bo-Kaap to Landsdowne in the Cape; Lenasia and Laudium in Gauteng; and in Phoenix, Chatsworth, Reservoir Hills, Umzinto, Overport and other urban centres in KZN. Ebrahim Rassool became the first Muslim provincial head when he was appointed Western Cape Premier by President Thabo Mbeki. According to a delighted Rassool, 'the fact that the President of this country could elect a Muslim as Premier even though most people in South Africa are not Muslims, says a lot for the respect Islam has in this country' (*Al Qalam* April 2004). This statement very succinctly captures the feelings of the majority of Muslims in present-day South Africa.

### **Conclusions**

This paper has argued that South Africa's Muslims are 'complex and sociologically diverse' (Roy 1996:vii). They are divided along lines of race, class, gender, ethnicity, language and beliefs, and it is highly simplistic to collapse them into a monolith on the basis of their being Muslim. There are multiple Islamic voices, traditions and identities. As Wasserman and Jacobs point out:

The challenge is to speak about Islam without reverting to binary thought... [Islam] is made up of a diverse range of competing elements. Amongst these elements are contested meanings of Islam, its role in a plural society, party-political legitimacy... Islamic narratives are being constructed using global and local symbols, which produce specific and hybridised Muslim identities.

They are intimately connected to the 'routes' of these symbols produced within colonialism, globalisation and the post-apartheid period. It presents us with an assemblage of tensions that are intensely internal and local, while at the same time being external and global. (2003:26)

Muslims in the WC often have more in common with non-Muslims than Muslims elsewhere in the country. Working-class Muslims in the economically depressed Cape Flats, for example, share common experiences with their Christian neighbours, around issues of poverty, drugs, and gangs, which differ from those of wealthier Muslims in the north of the country, or indeed in the upmarket parts of the Cape southern suburbs.

Indian Muslims mostly lived as Indians under apartheid, where race was central in defining existence. Uncertainties created by majority rule in 1994, the far-reaching impact of globalisation and the 'war on terror' have resulted in many Muslims retreating into an imagined, essentialised Islamic identity in their private and communal lives. Boundaries are being constructed between men and women, Muslims and non-Muslims, Islam and secularism. Identification with Muslims internationally is deepening as a result of new media, particularly the internet and radio stations. These are forging Muslim identity at the expense of Indian-ness. While the growth of personal piety features across class lines, it is mainly the affluent who are able to fully embrace most aspects of the 'liberated zones'. The turn to religious conservatism is of concern to some Muslim commentators. Jaffer, for example, fears that a Muslim retreat from the wider society and its institutions will have negative consequences:

If we consider the array of outstanding individuals spread across the country... then we have to conclude that we occupy a respected and solid presence, astounding for so small a community. There is however a very real threat to this trend... We could potentially move towards closing off from broader national life... The setting in of a greater conservatism, could lead to isolation. (2001:24)

Black African Muslims show the fastest growth in numbers, though they face many difficulties as a result of their geographical dispersion and lack of resources. It is expected that over the next two decades they will constitute the

largest segment of the Muslim population. It remains to be seen to what extent they will be successful in re-imagining an indigenous Islam. The nascent refugee Muslim communities may have an important role to play in fashioning an indigenous voice because many speak Arabic and a few are formally trained in Islamic theology. Notwithstanding efforts to bridge the racial divide, there remains a strong perception among black Africans that Islam is the religion of 'foreigners', of rich Indian traders in KZN and Gauteng, and less affluent but nevertheless 'foreign' Malays in the Western Cape. Given the widespread problems of poverty and unemployment, there are many unwelcome stereotypes about Malay and Indian Muslims: they are rich and affluent, drive expensive cars, live in beautiful mansions, spend excessively on lavish mosques, inward-looking, and racist. The challenge for Indian and Malay Muslims is to bridge the race and class divide. If they fail to do this, Muslims will remain peripheral, which might be dangerous as stereotypes and envy intensify in a climate of poverty and struggle over scarce resources. Indian and Malay Muslims need to take a leaf out of President Thabo Mbeki's book and have their own *iimbizo* across the townships to forge a spirit of genuine partnership, what Mbeki calls 'the spirit of *vuk'unzenzele*', between the Muslim 'centre' and 'periphery'.<sup>6</sup>

#### Notes

- 1 The terms used in this paper are problematic to the authors, who hold that the division of people into biological groups differentiated by colour ('race'), to which we can attribute specific features, has no scientific validity or explanatory value in social science. However, the categorisation of South Africans according to race is a legal and social fact, even in post-apartheid South Africa. Census 2001, for example, categorised South Africans as either 'white', 'coloured', 'Asian' or 'black African'. Further, these categories are in continuous use in everyday life, whether one is applying for a job, an identity document, a research grant, or filling in government documentation pertaining to skills training or employment equity. For this reason, the authors have, in most cases, not placed these terms in inverted commas.
- 2 To avoid confusion, and despite our deep reservations, we will adhere broadly to the terms used in the Census and generally in public discourse. Thus 'Indian' is used to describe Muslims whose ancestors arrived from South Asia over a century ago; 'African' is used to describe individuals whose mother-tongue is a language indigenous to Africa, and who are described in Census 2001 as 'black African'; while

'Malay', a heavily contested term, will refer to those of the Muslim faith who are part of the category 'coloured' in the Census. There is urgent need for South Africans to begin to engage with the notion of African identity. We regard all the above categories as African, though this is not the classification employed in this essay. We also contend, with Modood, Berthoud and Nazroo, that 'the act of studying them [race groups] does not 'construct' them: they are part of the basic facts of British [read South African] society and their study is a well-established activity. They are 'given' to us by British [read South African] society and an on going research stream' (2002:43).

- 3 Deobandi Islam took root in India when Muhammad Nanautawi and Rashid Gangohi opened a *madrassah* in Deoband in 1867 after their defeat by the British in the 1857 uprising. They remained aloof from political activity and attended to Muslim educational and religious needs to create a cohesive cultural community. Their concern was that compromises with Hinduism had resulted in syncretistic developments and they targeted practices considered to stem from Hindu culture, such as visitation to tombs and belief in the intercessionary role of saints. The gap between 'ideal' and 'actual' Islam was attributed to 'incomplete conversion' and they sought to acquaint Muslims with 'pure and unalloyed Islam' (Metcalf 1982). Deobandi Islam was popular among the Gujarati trading class. According to Robinson, reformist Islam required Muslims to be literate, and most who embraced reformism were located within the middle class and engaged in aspects of the modern economy (Robinson 1997).

The Sunni tradition has its origins in the work of Ahmad Raza Khan (1856-1922) of Bareilly, Uttar Pradesh, India, who sought to maintain the status quo (Sanyal 1996). In South Africa this tradition found expression mainly among descendants of indentured Muslims. Differences between Deobandis and Sunnis are due to class (trader against indentured), regional origins (western India against North and South), ethnicity (Gujarati against mainly-Urdu), as well as differences in belief and practice. As descendants of indentured Muslims acquired education and economic mobility from the 1970s, they challenged trader hegemony, leading to numerous altercations, even violence, which was particularly marked during the 1970s and 1980s (Vahed 2002).

- 3 <http://www.channelislam.com/welcome.htm>.
- 4 Interview, Ashwin Desai 20.04.03.
- 5 For example, Chris Pitsi, a 32-year-old Pretoria-based human resources company owner; senior advocate of the Durban Bar, Reggie Reddy; and Mduduzi Manana,

the 19-year-old son of Mpumalanga Health MEC Sibongile Manana (*Sunday Independent* 16.03.03).

- 6 *Iimbizo* refers to a gathering of leaders, while *vukenzenzele* refers to a partnership across class, race, and gender lines to work for the upliftment of humanity.

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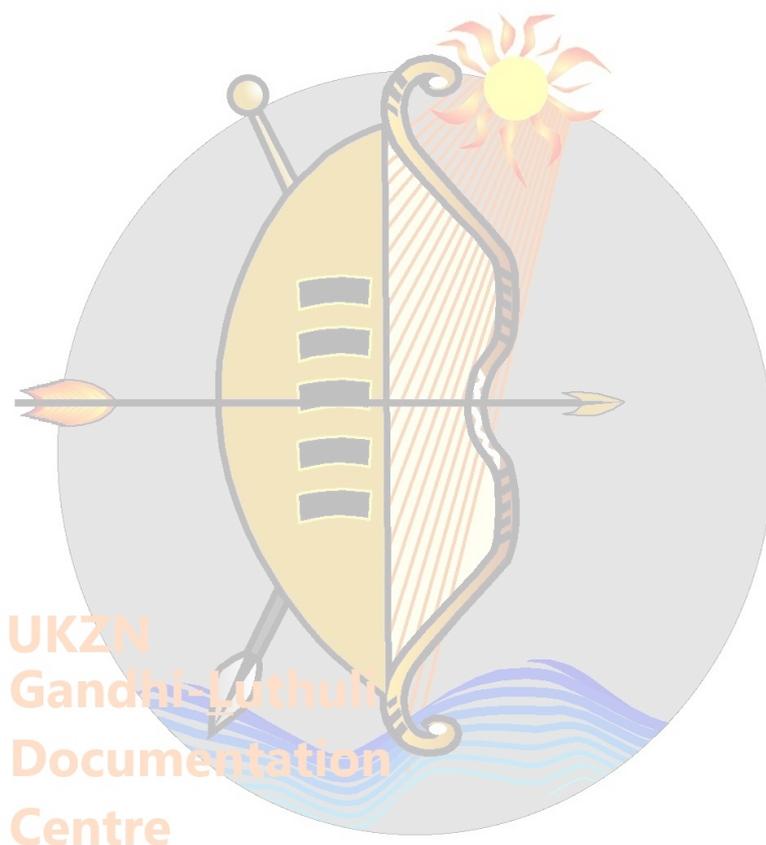
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# 11 *The state of the art(s)*

Lynn Maree

Artists played a prominent role in 'the struggle' that led eventually to the new South Africa. Among them were Athol Fugard, Nadine Gordimer, Gibson Kente, Miriam Makeba, Hugh Masekela, Mbuyiseni Mtshali, John Muafangejo, Mbongeni Ngema, Mongane Wally Serote, Barney Simon and Pieter-Dirk Uys – whose work resonated around the world, telling their stories of oppression with vitality, talent, humour and wisdom. As artists are wont to do, these stories proclaimed their expectations, and hopes and visions of the new South Africa.

Ten years on has their new world dawned?

It could be argued that ten years is too short a time to make any conclusive judgement, but this paper will posit that while for some the dawn of democracy heralded freedom of expression and the possibility of artists being able to flourish freely, for others it signalled the start of a battle for redress, transformation of cultural icons, and job creation in the arts.<sup>1</sup> Ten years on, that contest, plus an absence of will on the part of government, had, by the time of the April general election, destroyed more than it had built. Even the Presidential inauguration concert did not seem to celebrate the last ten years, but seemed stuck in a time-warp.

## *A brief overview: privilege and prejudice*

Under apartheid only white artists received subsidies from the state and only Western artistic activity was seen to be of value. The National Party (NP) government, provided subsidies to performing arts councils in the four provinces. Those councils, operating in the two official languages, were mandated to support the performing arts and, in every case, this was interpreted as operating their own performing arts companies, with rehearsal and performance venues.

White boards and white administrators employed white artists. They ran theatre companies, ballet companies and opera companies, employed singers, and often produced musical theatre. They operated sophisticated costume wardrobes, and workshops in which they built fine sets. The nature of the work performed could be described as Western and white, and elite rather than popular. Company members were paid salaries, offered pensions, medical benefits and housing loans, and large numbers of administrators were employed. Many of the artists employed were from abroad so that the 'best' orchestral musicians or ballet dancers could be placed in front of white South African audiences. This elevation of an elite Western arts practice even extended to institutions like the Durban Art Gallery, one of the oldest in the country, which, until well into the 1980s, had a paid agent in Europe seeking artwork to acquire for the gallery.

Alongside these imposing institutions, emerged smaller arts organisations, or arts centres, sometimes in the city centres, sometimes in the townships, like Fuba and Funda, Dorkay House and, later, Moving into Dance in Johannesburg, the Community Arts Project (CAP) in Cape Town, and the Stable Theatre in Durban, where plays were produced, artists painted, potters potted, dancers danced and, occasionally, training was offered. For the most part, these were funded from abroad (if they received funding at all) with what was often referred to as 'struggle money'. It came from organisations and foreign governments opposed to apartheid and interested in helping to offset some of its effects and bring about change – political change even more than artistic change, because the arts were seen as a safer way of offering money, and of indirectly empowering artists and audiences.

In some cases these 'artistic spaces' were multiracial, like The Space in Cape Town, where Athol Fugard and Yvonne Bryceland worked, or The Market Laboratory in Johannesburg, where Barney Simon, Mbongeni Ngema and Winston Ntshona worked. No-one had any money, no-one considered job security; making art, and art that often could be seen by the ruling powers as subversive, stimulated creativity, while the sense of community it gave provided purpose enough. *Isicathimiya* singing competitions were held all over what was then Natal, and dance performances took place in rural villages and migrant worker hostels. South Africans of all races painted, made pots, decorated their homes, sang in choirs, wrote poetry; Todd Matshikisa produced 'King Kong'; *Ipi Tombi* toured Europe; Mbongeni Ngema wrote and directed

'Sarafina'. In the townships, playwrights went from door to door issuing invitations to attend their performances – 'watch for free, pay if you like it' – and all of this was achieved without state support.

Over all of this a fierce censorship was enforced: novels and plays were banned, and the Dutch Reformed Church feared the sexuality of dance. Television was only introduced in 1976, when the NP government was sure it could control what was broadcast. A cultural hegemony existed, allowing some people to feel that they came from civilised and artistically rich cultures, and that others were barbaric or lacking in any culture.

### *The beginnings of change: the 1990s*

Once it was known that the government of South Africa was to change, the African National Congress (ANC) set up an Arts and Culture Desk to start to consider what needed to be put in place. At the same time the National Arts Initiative (later known as the National Arts Coalition) – a civic organisation made up of artists and growing out of the United Democratic Front – also began to envisage what was needed to enable artists to flourish and make their contribution in a democracy where there was freedom of expression.

By 1994 shifts had begun to take place in both employment patterns and what was produced at the performing arts councils, as a result of pressure from arts activists, and the easing up on the enforcement of apartheid laws. White visual artists still talk with excitement of the 1985 exhibition 'Tributaries', funded by BMW, which brought together, for the first time, work by self-taught, rural artists (usually black) and Western-trained and 'sophisticated' artists (usually white), paired many of the exhibits, and provided an opportunity for discussion and debate. Many of the 'newly discovered' artists went on to exhibit internationally and to sell quite widely.

Even before the April 1994 election, the performing arts councils – some of them under new boards – had made their own changes. For example, the Natal Performing Arts Council, now known as The Playhouse Company, had established an education and development department, offering training in the performing arts, arts administration, performance opportunities for community groups and outreach work – particularly to schools – by the Playhouse's resident companies. It also began to scale down its ballet company to establish a creative

and African-oriented dance training programme, paying trainees with talent but no formal training. The training programme grew into *Siwela Sonke* Dance Theatre and was officially launched in April 1997, by which time it had already given many public performances, toured Kwa-Zulu Natal with several programmes for schools, and visited Germany. In all instances, the composition of the staff and the artists employed, as well as the nature of the work produced, had become more African in orientation.

### **Structures**

In May 1994 the Government of National Unity created the Ministry of Arts, Culture, Science and Technology, and Dr Ben Ngubane was appointed as Minister. In October 1994, he appointed a national committee, the Arts and Culture Task Group (Actag), to research and propose new arts and culture policies for South Africa. This culminated in a national conference of the arts and culture community at which Actag's recommendations were debated and received overwhelming support, ultimately evolving into the White Paper on which legislation was based. Those artists who were at the conference – and they came from all spheres – felt that another part of 'the struggle' was over and their government was set on the right course; their only concern was that they wanted to see arts and culture higher on the new government's agenda, a concern mirrored by artists all over the world.

In June 1996, the *White Paper on arts, culture and heritage* was published, and in September of that same year it was adopted as official government policy. In the White Paper 'the arts' are defined as all forms and traditions of dance, drama, music theatre, visual arts, crafts, design, written and oral literature, all of which serve as a means for individual and collective creativity and expression through performance, execution, presentation, exhibition, transmission and study (DACST 1996). This definition of the arts is the one on which this paper is premised, so it will only touch on culture at the margins where there is overlap with the arts, as opposed to culture's wider remit, which includes heritage, beliefs and value systems.

The Department of Arts, Culture, Science and Technology (DACST) set about enacting legislation to establish the organisations that would give shape to the policies contained in the White Paper. The performing arts councils were told that their budgets were to be cut over the next three years, they were to devolve

## THE STATE OF THE ART(S)

their performing arts companies, and to open their spaces to all. The new department moved swiftly: the new National Arts Council (NAC) met in April 1997 and distributed its first grants in late 1997. Before this, the department had made its own funding decisions; the new landscape was created through the cutting of the size of the grants made to the old structures and new disbursements of grants made to new organisations and for new purposes. The NAC funds dance, drama, literature, visual arts, music and crafts. Initially it was set up to operate on the 'arm's-length' principle by which members of the arts community are appointed to make funding recommendations in their fields of expertise, and the government does not interfere in artistic decisions, though it requires strict accounting practices for this use of taxpayers' money. Systems are in place to prevent advisers from making decisions that favour either themselves or their organisations, and they are chosen for their fair-mindedness and commitment to the development of their art form. Board members are chosen after interviews from a list of nominations generated from the general public. A board member chairs each of the advisory panels. In the initial legislation, the board was to elect its own chairman.

In 2002 the DACST was split so that the Department of Arts and Culture (DAC) had its own director-general and staff, although still under one minister. The DAC had its own funds and saw its role as wider than the funding of the arts in response to applications from artists. It has signed many bilateral agreements with other governments, which it manages itself, has been given funds from other sources, such as the Poverty Relief Fund, and on occasions instigates and co-operates with other government departments such as the Department of Trade and Industry. In 2002-03 it spent R495 million. Its Strategic Plan for 2003-06 includes in its arts and culture programme, provisions ensuring the sustainability of the six playhouses as cultural institutions, the funding or part-funding of three orchestras, support for grassroots communities, community arts centres and ten festivals, and financial support to the NAC to distribute funds equitably.

The arts have been affected by changes in other sectors, theoretically in extremely positive ways. Chapter 4 (clause 30 and 31) of the White Paper committed the Arts and Culture Ministry to:

actively promote the Constitutional right of every learner in the General Education and Training (GET) Phase to access equitable,

appropriate life-long education and training in art, culture and heritage to develop individual talents and skills... (this should) embrace opportunities for making, performing and presenting as well as appreciating the many expressions of South African cultural heritage to realise the right of all South Africans to participate fully in, contribute to, and benefit from an all-inclusive South African culture. (DACST 1996)

So arts and culture became a learning area in the GET-level of the Revised National Curriculum, paving the way for huge changes in the way that the arts are viewed. All schools are now meant to teach the arts until the end of Grade 9, and in such a way that the White Paper principles of equality, reclamation and exposure of all to all are promoted. The aim is to overcome imbalances in opportunity by using schools and community centres to find and nurture the talented.

The establishment of SAQA (the South African Qualifications Authority) as the body mandated to establish and manage the National Vocational Qualification (NVQ) was welcomed by the arts world as a way of upgrading the qualifications of many people with arts expertise and experience, but no formal training and no paper certificates. In a globalised world this matters. A Culture and Arts National Standards Body was established and this included a sub-set of standards generating bodies (SGBs) for dance, three for music, art, craft and design and technical production services, and more recently a performing arts SGB, as well as a working committee drawn from these for creating qualifications in cultural management. And because the arts and culture sector is not profit-producing, preventing the skills levy imposed on all industries from generating sufficient funds in the cultural sector, the DAC established and funded CreateSA. This body is tasked with providing training in what have become known as the cultural industries. The DAC is particularly interested, at least initially, in those seen as having the potential to create employment and alleviate poverty: craft, music, film and video, and the printing industry. Audits have been carried out, proposals made for the music industry, and learnerships established, most notably in craft and music.

It was hoped – in fact enacted – that there would be continuity and connection between national, provincial and local government. This was particularly the case in the areas of the infrastructure of the performing arts councils,

the funding and support of the community arts centres, and the setting up of provincial arts and culture councils, responding to applications and plugging gaps in provision at the provincial level, in a loose partnership with the NAC. This has not worked as was hoped. In a newspaper interview, Dr Ngubane said: 'The provincial arts councils are not providing money from the provincial coffers' (*Sunday Independent* 16.11.03). In many provinces little attention is paid to existing arts and culture organisations. Suspicion seems to exist between artists who need funding and the bodies empowered to fund them. So this part of the post-1994 plan has not functioned, and its dysfunction has led to strains and distortions on the rest of the system.

There are other additions to the range of funding possibilities, including the Arts and Culture Trust, funded partially by the Arts Card available at Nedbank, whose normal ceiling on funding for any particular organisation is R30 000, and the National Lotteries Distribution Fund, capable of giving very large sums but without the fixed percentage for the arts that had been recommended in the White Paper. This makes it the favourite funder for artists, but also the one most capable of inconsistency, and difficult to rely on. Finally, Business and the Arts (BASA) was established in 1997, offering a way for South African businesses to be involved in supporting the arts and raising their company's profile through this support, and trying to encourage private philanthropy. BASA lobbies government for tax breaks for arts sponsorship. So, for an artist there are sources of funding inside South Africa and, where inter-governmental cultural agreements exist, outside South Africa – for example, Mmino for music and music education, housed with the NAC and funded by Norway.

### ***Stabilisation, refinement, disillusion, contestation***

#### ***Government***

The early hopes for an artist-led dispensation for the arts received some setbacks in 2003. Explanations for these changes are contested: some attribute this to the low status of arts and culture in government priorities; others to the fact that Minister Ngubane was a member of the Inkatha Freedom Party; others to high staff turnover in the department, understaffing, lack of capacity, desire to do too much and to delegate too little, and the nature of bureaucracy; others to a defensiveness and resistance to criticism; and others, particularly those closer to the department, put it down to a perception within the

DAC that the outside arts world seems determined to give them no credit, never acknowledges their efforts and their successes, and does not appreciate the difficulties they face. As Dr Ngubane said, in a radio broadcast on SAFM in October 2003: 'the artists can go to hell'.

Before 1994 the National Arts Coalition had grown out of the United Democratic Front, and had organised for a new dispensation for artists. With 'the struggle' over, artists thought that they could get on with their art-making. And yet, in 2001, the Performing Arts Network of South Africa (Pansa) was launched, 'against a background of a major decline in the infrastructure underpinning the performing arts.'<sup>2</sup> There was a significant loss of morale and flight of skills from the sector, with many performing artists leaving the industry or the country. Pansa's mission is to ensure that there is a viable, sustainable performing arts industry in the country:

To achieve this, we have to lobby decision-makers in government and elsewhere, initiate projects that service our members' needs, undertake research and make policy recommendations where necessary, and build our organisation so that it is an influential force within the sector.<sup>3</sup>

In 2003, the Network for Arts and Culture in South Africa (Nacsa) was formed. Speaking at the launch, its chair, Mike van Graan, said:

The Network for Arts and Culture is about fighting for and defending democratic spaces for creative practice. It is about empowering and defending the right of individuals to exercise their constitutional rights. It is about pushing back the barriers to freedom, engaging the high priests of new censorship, about ensuring that there is the political space, the funding resources and the will to promote and defend freedom of creative expression. For when we are silent, when we allow anti-democratic actions to flourish, we participate in our own disempowerment, we encourage reactionary processes and we allow others to mould our democracy in their self-serving image. (van Graan 2003:3)

These were brave words, uttered before turbulence engulfed the NAC and, with hindsight, they sound prophetic.

### ***Performing arts councils***

By 1999, the performing arts councils had ceased funding all of their performing arts companies and these companies disbanded or found other ways of continuing. In most cases the 'divorce' was not as gentle as the White Paper had indicated that it should be. In the process of disbandment, much of value was lost, notwithstanding contestation over what is of value: workshop, wardrobe, production and administrative expertise; training sites; mentoring possibilities; even the mounting of locally produced large-scale musical theatre. Some of the performing and rehearsing spaces are 'dark,' so resources are being under-utilised. Artists no longer know the luxury of being employed by a performing arts council – well or badly paid, but with some job security and support, a housing bond, medical aid and access to a pension fund. Although the funding cake is spread more fairly, and the profile of the kinds of artistic endeavour supported with public money is radically different – in particular the funding of art forms other than the performing arts – the lack of security and prospects of a career path still need to be remedied if South African artists are to stay at home.

### ***Arts and culture centres***

The Reconstruction and Development community arts centres, now renamed arts and culture centres, are to be strengthened with poverty alleviation funds administered by the DAC. Research was commissioned from the Human Sciences Research Council (HSRC), and a member of HSRC staff was seconded to the DAC. An audit was carried out, recommendations made, and some of the funds from the Flemish government, raised in a bilateral agreement set up by the DAC, are now being used to offer training and support over three years. However, many independent community arts centres, such as CAP in Cape Town, the Bat Centre and the eKhaya Multi-Arts Centre in the eThekweni municipality, which have experienced committed staff and an infrastructure, are left to find their own funding. The new recommendations include using these to mentor and network with the DAC's arts and culture centres in future.

### ***Arts and culture in the education system***

The new school curriculum, Curriculum 2005 (and its revision, the National Curriculum Statement), includes arts and culture as a learning area at the level of general education. Arts and culture embraces music, dance, drama and the visual arts: what is missing is trained teachers, artists in residence and teaching materials to ensure that, even in uni-cultural schools, the cultural diversity of our land is made apparent and accorded time and respect. Implementation strategies need to be put in place to achieve an 'integrated developmental approach leading to innovative creative and critical thinking, (as well as) a sense of pride in our diverse cultural heritage' (DACST 1996) – at this point, in most parts of the country, these are merely words on paper. Until 2011 there will be a major mismatch between what learners have covered at the GET level and what is available to study at the level of further education and training (FET).

Some initiatives and proposals exist to address this in the short term. One such initiative is a partnership between the Curriculum Development Project, a non-governmental organisation (NGO), and the University of the Witwatersrand School of the Arts, with the support of the Flemish government and the DAC. This concentrates on using visual artists and craftspeople as artists-in-schools, after they are equipped with teaching skills by the programme. While some individual teachers and teachers' organisations, and a few universities, are trying to implement this learning area seriously, in the main, both in schools and in initial teacher training, the working group that wrote the curriculum for the learning area feels that it is a waste of time and that, 'if it continues to be done as badly as it is being done, there will be very few learners equipped to specialise in any of the arts subjects at FET level, so that the only young people who will qualify to study the arts at the tertiary level will be those whose parents could afford to let them study the piano outside of school. We will have weakened the arts, switched most learners off them, and failed to equip anyone even to appreciate them.'<sup>4</sup> Some ex-model C schools do not teach arts and culture, nor welcome arts and culture student teachers in their schools.

### ***Training and qualifications***

The same determination, resources and a delivery programme are needed in the training of artists and technicians. SAQA is the body charged with the

establishment of qualifications structures for all education and training. It has been joined by CreateSA to ensure that all 'cultural industries' and their attached technical and management needs have registered outcomes-based unit standards that can be used by training institutions, accredited NGOs and work-based learnerships. Some SGBs are almost at take-off point in terms of accreditation of the prior learning of those artists who are already experienced teachers and practitioners but have no formal qualifications, and in the provision of short courses to fill in any gaps. But there is an inertia at the heart of SAQA, and a failure by the Departments of Labour and Education to agree on moving forward the integration of education and training. This is a major blow for the arts sector since SAQA was seen as the route to recognition, accreditation and redress.

However, not all training is failing: the beginnings of a rural success story can be seen in the Greater St Lucia Wetland Park Authority in KwaZulu-Natal, where links between the upgrading of craft design and production, and the enhancement of the performing arts skills of local people are seen as likely to increase tourism and tourism spend in the area. In 2003, CreateSA ran two pilot learnerships in the area: a cultural programme and a craft programme, helping learners to understand the value chain, with a continuing mentorship by qualified artists. The aim was to introduce quality and development into an area where there is a danger that the making of 'heritage' art for tourists could freeze and exoticise the art forms. There is a tension that must be acknowledged between providing people with skills so that they can earn a living, and empowering them so that they can be creative and knowledgeable about the art form or artefact they are working with, respecting tradition and designing it for a market. The NQF is meant to provide for both.

***Apart from subsidy and government initiatives, what voices have been found?***

In contrast to the lack of delivery of provincial government, some of the larger cities are embarking on exciting development initiatives that include arts and culture, recognising the possibilities of using the arts in public ways to increase tourism and international city status. In Durban, the intention is to create an 'African' city. In Johannesburg, where a Director of Arts, Culture and Heritage was appointed early in 2004, the regeneration of the inner city is

being matched – and complemented and influenced – by the Cultural Arc, an extraordinary cultural rebirth centred on cultural projects linking Constitution Hill through Braamfontein to Wits University's new cultural precinct, across the Nelson Mandela bridge to a Newtown precinct beginning to realise some of its immense potential. The artistic achievements of the past ten years were celebrated with a month-long festival in Newton in April 2004. The Cultural Arc is currently providing creative employment for architects and visual and conceptual artists, and has the potential to place the arts in a dynamic relationship with the public. The Constitutional Court on Constitution Hill not only houses works of art, it commissioned artists to design and make doors and carpets so that the aesthetic is inherent in the fabric of the building – and it is a powerfully South African aesthetic. The reasoning behind these developments are varied: in some cases to attract tourists; in others, as in the inner city of Durban, to train and empower locals to give them a sense of ownership and pride in a part of the city they have made their own, and in which they find means of surviving.

Government policies and funding cater for only a small section of the arts in any country, and most arts activity is unsubsidised. One such unsubsidised, and expanding area is that of South African soap operas on television – a growing output has broken the American stranglehold prevalent until 1994, and South African audiences of all language groups get to watch South African stories. While not always the most challenging of roles, the work is well-paid, and sometimes allows those actors to take time out to take part in more risky productions.

Television and video, often documentary, can provide the base for a new film industry. The National Film and Video Foundation has funded some creative activities and provided training opportunities, in addition to entering into potentially hugely lucrative funding partnerships with foreign governments and private business for feature films. South Africa has become a popular location for the filming of foreign-funded and foreign-directed movies. Anant Singh of VideoVision has begun work on Dream World, a major studio in Cape Town, and has recently bought a building on Durban's beachfront to house more studios. South Africans have won major prizes at international film festivals, while indigenous festivals – such as Sithengi in Cape Town, the Festival of African Films in the refurbished Art Deco Apollo cinema in Victoria West, the Durban International Film Festival run by the Centre for

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Creative Arts at the University of KwaZulu-Natal – have brought an end to isolation. All of these festivals run training workshops and work at using new venues. In 2003, the Durban International Film Festival held a screening at eKhaya Multi-Arts Centre, and attracted an audience from across the city of Durban to the sprawling township of KwaMashu.

There has been a drastic cut in cultural programmes, especially drama, on radio so that there is now a severe limit on the availability of stimulating, thought-provoking plays, which could deal with current issues and controversies. This seems a missed opportunity in a society where more people listen to the radio than watch television or read the newspaper – a society in the early stages of becoming a participating citizenry, still struggling with an inadequate education system that continues to bear the scars of the apartheid years.

Music, on the other hand, has benefited: there are more radio stations and the percentages for the broadcasting of local music have been increased, creating new opportunities for musicians, especially the youth market. Although local musicians still want to see the percentages raised, there is always tension between the demands of musicians, music production companies and audiences/listeners. After the isolation of the cultural boycott before 1994, it is also important that both artists and audiences are able to enjoy artistic products from the rest of Africa, as well as the rest of the world.

In the clubs of urban Gauteng, there is a vibrant music culture around the hip-hop and electronic dance scene. Some of these artists are melding popular pulsating dance rhythms with traditional sounds, stories, and instruments; some of them, like Lebogang Moshile of Feela Sista, speak their microphone poetry that draws on rap, intelligent hip-hop and the heritage captured in the wisdom of the ancients, to create poems of great power and beauty that express the beginnings of a new South African artwork that represents us and speaks to the world. School choirs participate with intensity in country-wide competitions. The Field Band Foundation uses brass bands and dance to bring life skills and hope to thousands of young people, and the Buskaid Soweto String Ensemble offers music training to young people.

Contemporary dance is often hailed as the major success story in creating a new language for the South African celebration of what the body can say. The First National Bank Dance Umbrella in Johannesburg in March 2004 showcased a wealth of choreographic talent, complete with social comment, and at

the same time, a souped-up tribal/kwaito performance performed at the Sao Paulo Carnival in Brazil. Many choreographers spend more time out of the country than in, and the dancers live from hand to mouth. It is difficult to sustain freshness and creativity when appreciation seems to have to be self-inspired.

Theatre is in even more trouble. There is limited funding for scriptwriting, the basis of contemporary theatre, and the absence of full-time companies has forced many actors into television and industrial theatre, or out of the country. Perhaps self-censorship too plays a part both in what theatre companies feel able to produce and venue managers to book. An examination of current locally-produced theatre productions, as well as conversations with actors and theatre directors, shows that the initiative and drive of theatre people means that work is still produced, and notwithstanding the disenchantment that those private conversations indicate, 'the show must go on' vigour is what the audience is given.

The proliferation of festivals, music, film and the performing arts in general has had a positive effect on the public profile of the arts, although they do very little for the pockets of the artists. The Grahamstown Festival, begun by the 1820 Settlers' Association as a high arts festival of music and some theatre, has been transformed into a major South African and international arts festival, with associated jazz, visual arts, poetry and literature programmes, and a large fringe and street theatre component. Unfortunately, some muddles with the NAC, including the late appointment of its new board in 2003 and its prolonged 'pause' in 2004, have prevented and will prevent South African work from all parts of the country from being seen in Grahamstown. In February 2004, the country's only literature and literacy festival, WordFest, which runs at the Grahamstown Festival, still did not know if it had funding for July, and months of necessary preparation had to be foregone.<sup>6</sup> But, funding problems and caveats notwithstanding, the Grahamstown Festival has survived and thrived in a decade of change.

The District Six Museum, an arts and culture centre deeply rooted in and connected to the destroyed community it aims to commemorate and make a living memorial, is showing the way and attracting visitors from all over the world. The museum has had marked success in raising funds and winning prizes, and forms part of Cape Town's tourist network. The 'coon carnival',

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once an opportunity for slaves to dream of freedom, then an actual celebration of freedom from 1834 through the 1950s, during which time it evolved into a fiercely contested competition with judges and prizes, declining under apartheid into a shell of itself, is 'now surely...in the next major phase of evolution - ascension' (Harris 2004:88-90). Cape Town city authorities have included the carnival as one of its Cape of Great Events - the only concern is the sanitisation that comes with turning a community activity into a tourist attraction.

There are new opportunities for visual artists: funding from the NAC (when it functions); city developments; corporate commissions; arts prizes; the opening up of international markets and circuits; and open admissions to tertiary institutions. Galleries are starting to open up - a notable initiative is that of Red Eye, hosted by the Durban Art Gallery, that has turned an ostensibly impersonal municipal location into a welcoming and relevant space for youth of all race groups. The celebration of ten years of democracy in 2004 has provided an opportunity for creative stock-taking and curating - for instance, over 150 artists have work on exhibition at the South African National Gallery in Cape Town, entitled 'A decade of democracy'. The exhibition both celebrates where South Africa is now, and critiques some of those achievements - mind and heart combine intelligently. However, some opportunities that arose with the ending of South Africa's isolation in the late 1980s and early 1990s have closed down again - for example, the re-marginalisation of the rural artist and the self-taught artist, and the shrinking of budgets for gallery acquisitions.

The writers and poets of the country are in a singular space: freed to write what they like in a country where the majority of the population do not read; a country which has 11 official languages, yet where writing in a mother tongue that is not mainstream means the death of these books; where we have a very high rate of value-added tax on books, even pushing up the price of set text books; and where writers such as Mandla Langa or Najabulo Ndebele, are committed to high-powered jobs that leave them little time for writing, and the country's newest winner of the Nobel Prize for Literature leaves the country. The establishment of more libraries, the constant acquisition of books and improvement of existing libraries: these have slipped down on the priority lists of municipalities. There are fewer independent publishers and book-sellers today than in 'struggle' days, when remarkable publishers evaded cen-

sorship lists and provided readers with the challenges of protest literature. Nonetheless, for those who do read, a wealth of thoughtful work published in the past ten years has made an important contribution to nation-building – honest works like Najabulo Ndebele's, *The cry of Winnie Mandela*, Antjie Krog's, *A change of tongue*, and Aziz Hassim's, *The lotus people*.

### **Globalisation**

South African artists want to travel the world, to be free to perform anywhere and to try and find work in other parts of the world. But because of our skewed education system, because many of the old inequalities of opportunity and training have yet to be overcome and because of the many years of technical isolation, there is a skills deficit that needs to be remedied over time. At the same time, the Growth, Employment, and Redistribution strategy and the free-trade agreements entered into by the South African government mean that performers and technicians from elsewhere can obtain employment easily in South Africa. This causes resentment among those who feel that, at least for a while, South African artists should experience some protection.

South Africa has signed up to join two international organisations that have emerged in a bid to protect local cultures from the cultural hegemony of America: the International Network for Cultural Policy (INCP) is a grouping of cultural ministries from around the world, signed up to by the DAC, and the International Network for Cultural Diversity (INCD), is an NGO network with similar intentions, signed up to by Pansa and Nacsa. Both organisations are involved in a move to hold an international convention on cultural diversity.

Increasingly, South Africa is taking its place in the artistic community of the continent. The Pan-African Society for Musical Arts Education exists for music educators on the continent. The Centre for Creative Arts at the University of KwaZulu-Natal in Durban hosts annual festivals for writers, poets, contemporary dance and film, and their 'Time of the writer' festival held in March 2004 consisted entirely of writers from Africa. Links with theatres, festivals, arts centres and performing artists are being forged across the continent through the cultural organisations and networks of *Opérateurs Culturels et Reseaux*,<sup>7</sup> where the *lingua franca* is at least as much French as it is English. The stronger South Africa's artistic culture, the more it can seek partnerships from a basis of

strength. The alternative – for example if we strive for American production values in our film-making – is that our landscape will be used by foreign film-makers, who bring in their celebrity actors, and sometimes even their technical staff and crew, and pay them more than they pay local actors and technicians. Our stories will be told by others and we will be sucked dry.

### *Where to now?*

In South Africa, the discrepancy between the rich and the poor is one of the greatest on earth, and unemployment and poverty are massive problems. The arts are sometimes seen as a potential creator of jobs, a sector of the economy that is labour-intensive, and, with its connections to tourism, a growth area. This market mentality has led many artists to emphasise the contribution that the arts can make to the economy, viewing this as a potential argument to strengthen the case for subsidy and training. But the arts have additional contributions to make to society. The arts can make us think and question so that we become more aware of what it means to be a person; the arts relate us to each other and the complexity of living with each other, to our history, our country, our environment, the world – they enrich our lives and help us to dream. These starting principles and values are at least as important as the label on the jeans we wear, the make of car we drive, or the number of CDs we buy.

To realise and reach their potential, artists need talent, commitment, application, time, an appreciative audience, something to say, and the freedom to say it. To work without hardship, artists need and want resources, support, a sense of an artistic community and recognition. Our society ranks sport and possessions higher than the arts, and artists often lack resources and do not feel valued. But artists do now have the freedom to express themselves, whether that is in creating something beautiful or something that expresses indignation; the funding cake is spread more fairly, cultural values are more open to choice, and there is a sense of a democratic nationhood struggling to be born. 'Liberation is consciousness of self, not the closing of a door to communication but a never-ending process of "discovery and encouragement" leading to true national self-liberation and to universalism' (Said: 330).

What was embarked on in 1994 was an exercise in trying to undo a great wrong with the least possible breaking of eggs. In some areas of national life the objectives are simple and clear, such as access to water and electricity for everyone.

The only problems are affordability and delivery – there are no arguments over what sort of water, what kind of electrification, and certainly not what sports are played in international competition. But arts and culture are about identity, about who we are and what we value, and, in a multi-cultural nation, repairing or setting right the damage done by the denigration of customs and rituals and finding ways to promote our national pride. Building the new includes everyone having to give up something vital, to being persuaded that the new is not only politically and morally correct, but actually enriching!

From 1994, with the launch of Actag and the White Paper, some of the anger was put aside, some of the hurts papered over, and there was a recognition of what was necessary for the greater good. Boards of impeccable representivity were appointed, but there was still scope for misunderstandings and arrogance. Black publicists get bookings abroad, white arts publicists get bookings in schools in South Africa. Perhaps the emollience of John Kani, when he chaired the NAC – a man who had spent much time in England – was a source of irritation to those who wanted something saltier, something that jolted white liberals who seemed to think they could smoothly change gear.

In my own experience as a current member of the Dance Advisory Panel of the NAC, it is clear that all members of the panel want to fund those applications that set the nation on a pathway of equity and redress. There has been a marked development in dance, with some very fine dancers and choreographers shaping new traditions and directions for a truly South African creative dance, using and celebrating what they know. But still the panel rejects most of the applications it receives. There are several problems: in some cases projects are too small and local for the NAC to fund, which would not be a problem if provincial and local levels were functioning as they should; in other cases, although the NAC's countryside workshops have helped applicants to understand how to fill in application forms, supply constitutions and references, the applications do not indicate a strong-enough dance content to win the panel's approval. For this to improve, the NAC needs more and experienced staff, and outreach staff to advise, guide, and develop the initiators of projects. Sometimes the budgets include all the necessary information, but their presentation makes one doubt that anyone involved would know how to manage those budgets. For this to improve, training and mentoring is needed, and perhaps the oversight of a more established organisation. Public money

must be accounted for. The problem is much larger than just the panel and the nature of its deliberations.

Since November 2003 there has been a breakdown of trust on the part of the NAC board, for which the chief executive officer has been held responsible. During her suspension, the chairman of the board overturned a recommendation of the NAC Theatre Advisory Panel on the grounds that the play to be funded to tour 'only deals with one culture'.<sup>4</sup> In this case, the play, *At her feet*, by Nadia Davids, deals with a Muslim girl growing up in multi-cultural South Africa, and has been acclaimed by audiences of all race groups. Perhaps this is an aberrant decision portending nothing, or perhaps it is a forerunner of things to come. Objections to this ruling include: a great deal of what is funded only deals with one culture, and there is no such requirement in NAC policy; and such action is outside the remit of the chairman as only applications above R100 000 are meant to be reconsidered by the board, and the sum requested was below that. While this decision may seem insignificant, it underlines the need for vigilance in protecting newly-won freedoms. However much the situation with regard to the arts may have improved since 1994, new dragons still arise to be battled.

### ***Why the conflict? Is there hope?***

The research for this chapter was begun late in 2003 in a mood of cautious optimism. The feeling was that the high hopes of 1994 and the heady freedom of the Actag consultancy period – while somewhat dashed by delivery problems and some unnecessarily stringent destructions – were returning. While there had been teething problems at take-off and some turbulence thereafter, the arts were making steady and elevated progress. But that mood has been overtaken by events. Struggles within the NAC have left it rudderless, with arts organisations suffering and even perishing from collateral damage. At the time of the April general election, the arts dangled in a dangerously unsupported position, a situation which had been exacerbated by the sudden departure in February of Minister Ben Ngubane. Once the new Cabinet was announced, a sigh of relief and anticipation flooded the arts world: a separate Ministry of Arts and Culture; a President who acknowledged that the area had been neglected over the past ten years; and the appointment as minister of an ANC heavyweight, the intellectual Pallo Jordan.

At the same time the Lotteries Fund has still to stipulate a new applications deadline, while a pronouncement on the second-last round of applications took 11 months, hindering preparation and causing stress to applicants. Within eThekweni Municipality, Durban Arts, the arts body inherited from the old regime and subsequently transformed, has been allowed to die with a whimper, leaving arts organisations that had come to rely on it stranded. Its arts magazine, *D'Arts*, which has won national prizes and provided a space to publicise all the arts activities of the region at every level, was unable to print its March 2004 issue, and is limping on from month to month with private trust funding. The KwaZulu-Natal Arts and Culture Council took eight months to decide on applications received in June 2003 for the financial year 2003-04. If this were not sufficient cause for alarm, there was no mention of arts or culture in the discussion document *Towards a ten-year review* emanating from The Office of the Presidency in October 2003, while the government's glossy insert in national newspapers, *Report to the nation*, in February 2004, was equally silent on the subject. Hence the President's acknowledgement of neglect in late April brought relief and the hope that funding will become more secure for those whom their peers judge worthy, and that creativity will be given a boost through challenges, artist-led workshop/residencies, off-the-wall training opportunities and writing fellowships.

Racism and racially-structured thinking still affects the arts deeply. Apartheid taught that white culture was superior, and that white inventions, including works of art, were the ones of worth. Whites were allowed to lay claim to the achievements of Greeks, Germans, English and the Dutch, while insisting that the Xhosa, Zulu, Venda and Shangaan people and their cultures were each different. Even in 2002, an Indian dance event at The Playhouse in Durban was described by a white arts journalist on SAFM as 'different'. So there are those who feel that redress can only be implemented by not funding anything 'white'. Apartheid and racism taught us to think of culture and arts as belonging to certain groups – ballet was/is white, opera was/is white, *isicathimiya* is Zulu – and so there is tension between those who want there to be no ballet on our stages, and those who want to make ballet more South African and to encourage young black people who want to study it.

Sometimes black people in positions of power are pressured into thinking 'black' – black employees, black cultural performing groups or exhibiting artists, black cultural traditions. Some white people with useful skills or

expertise and experience are lost; some black people, feeling that their turn has now come, are unwilling to take time to learn the ropes. In addition there is a sense that sectarianism and cronyism sometimes operate when appointments are made, not on the basis of expertise, but on the basis of political affiliations and friendships. And so the race card is played, and whenever it is played, for the most historically understandable reasons, it mires us in potential discriminations, and in possibly constitutionally questionable decisions.

Today there is a risk that those rigidities will be used to foster divisions, this time for the seemingly valid reason of reclaiming the status and respect that was denied by apartheid. But it keeps us in our boxes and it divides us when the chapter on 'Underlying values' in the *White Paper on arts, culture and heritage* that forms the basis of policy in these areas states: 'Culture should not be used as a mechanism of exclusion, a barrier between people, nor should cultural practices be reduced to ethnic or religious chauvinism' (DACST 1996).<sup>8</sup>

Employment equity can only be implemented where there is restructuring or expansion or when posts become vacant. And so there are cultural institutions and organisations in which there is frustration at 'glass ceilings'. Among artists and administrators the most frequently mentioned frustration in which race played a part was that of white women in senior positions who are sometimes viewed as unreconstructed in their mind-sets about excellence and display, even when they consider themselves to be deeply committed to the new South Africa.

In some instances, white board members feel silenced by their whiteness. Given our past this is sometimes an understandable feeling, but it is not helpful to anyone when there are issues that need debate. The National Action Plan and Strategy to Combat Racism by the South African Human Rights Commission contains recommendations for arts and culture, including that:

- We agree to share a culture: bits of it do not 'belong' to bits of our society.
- We *value* the 'ways of life' of all – not tolerate, not even merely respect, real value.
- We encourage borrowing and innovation, but from a sense of equality. Art forms and traditions, unlike sacred relics, necessarily evolve, borrow from what's around them, and are creatively improvised. We let the arts

message the cultures to allow for flexibility. There are two forms of the new: one is that of creative artists making something different, the other is the introduction of something recognisable to one group and quite new to another. The cognitive extension that comes to us all on finding new ways of seeing is something we may all come to share.

- The vision in the White Paper on arts and culture needs to be implemented in order to give a shape to the funding policies and strategies adopted for the arts: what must be provided at national level, what mechanisms must be put in place for touring, for infrastructure across the country, and for training in the arts and in arts management at all levels.
- We introduce anti-racism and anti-sexism workshops at all levels and structures in the arts sector, from the DAC down to the smallest arts group to be in receipt of funding.
- We learn to find the words and the tone and context for the words that allow us all to be critical in a constructive way, so that we can hear each other. (SAHRC 2002)

In a newspaper article in the *Sunday Times* of 15 October 2000, Judge Albie Sachs, who sits on the bench of the Constitutional Court and played an active role in the design of its new building in Johannesburg, defined the situation succinctly:

We are in a strange position. No group is in charge; no section exercises cultural hegemony. The old establishment has lost its **U**hauteur, but no confident and powerful new establishment has emerged to replace it...what we lack is confidence, organisation, **C**focus and leadership...we have to learn to enjoy and be invigorated by the multiplicity of our cultural forms, and to get used to **D**being as we are, even while we are changing.

### Centre

#### Notes

- 1 Research for this paper included interviews with many role players in the arts sector (see list of acknowledgements below).
- 2 [www.artslink.co.za/pansa](http://www.artslink.co.za/pansa): Keeping the dream alive, towards a vision and plan for the performing arts in South Africa.
- 3 Available at [www.artslink.co.za/pansa](http://www.artslink.co.za/pansa).

- 4 Jenny van Papendorp, interview, 6.02.04.
- 5 CreateSA is responsible for the development and implementation of learnerships (work-based training programmes) that lead to the achievement of qualifications registered on the NQF through SAQA. So while CreateSA is involved in the delivery side, SAQA is involved in the design. However CreateSA does get involved in supporting the work of SAQA's SGBs so that the qualifications upon which learnerships are constructed are developed. This is because there is a legislated requirement that learnerships should lead to NQF-registered qualifications – in order to register a learnership with the DoL, CreateSA has to provide the DoL with proof that the qualification is registered with SAQA.
- 6 *Sunday Independent*, 8.02.04.
- 7 Approximately 70 cultural organisations, festival directors and artists from 20 African countries met in Durban for the 2nd OCRE Encounters Cultural Conference from 23–27.09.02. The OCRE – *Opérateurs Culturels et Réseaux* (cultural organisations and networks) – Encounters, hosted by the Centre for Creative Arts, University of KwaZulu-Natal, was organised by the French Association for Artistic Action, a branch of the French Foreign Ministry, as part of its *Afrique en création* programme.
- 8 Chapter 1, Clause 13.

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## 12 *The state of the archives and access to information in South Africa*

Seán Morrow and Luvuyo Wotshela

Why should citizens concern themselves with the records of the past? They should do so because such records are the collective memory of government, business, civil society, and individuals, and because a society with inadequate archives is like a person who has lost his/her memory. Without them there can be no effective collective action, and activities will take place in a fog of ignorance, limited by the fallibility of individual recollection. In particular, archives can contribute powerfully to forming and maintaining a state whose political and administrative functionaries have the opportunity to be aware of the past and can therefore hope to avoid continually stumbling down the same cul-de-sacs.

Archives are also about history. The authors of this chapter are historians, with a professional interest in archives. We believe, however, that a historical view, and the accompanying concern with archives, is of vital interest beyond this discipline. History does not belong to professional historians, and a sense of history is crucial to South African democracy. Archives are about maintaining, and even recovering, memory of a complex and often troubled past. They are about the creation of new materials for, and ways of seeing this past and of enabling obscured and ignored social actors to come to the centre of the historical and contemporary stage. They are about redress of past injustices and about establishing markers that may help to reduce the likelihood of future ones. They are about maintaining memory in a world where technology accelerates communication and multiplies records to the point where their very mass threatens to make them incomprehensible, and where potentially unstable electronic material can be altered, deleted or cease to be readable.

In outline, what is the contemporary state of South African archives? A well-functioning but circumscribed official archives system that concentrated on the records of the apartheid state has now been given a wider remit. This has

put the system under strain, but the National Archives of South Africa (NASA) remains one of the most efficient official archives in Africa. At provincial and local government levels the situation is often unsatisfactory, with insufficient skilled personnel and, as this chapter demonstrates, sometimes highly inappropriate storage conditions. Archives everywhere are shaped by their provenance, and they generally reflect structures of authority. South African archives follow the fault-lines of the country's divided history, with those inherited from the dominant elements in the previous regime remaining relatively well-organised, and those generated by homelands, township administrations and the like less so. Previously, all government records were totally embargoed for 20 years. Now, at least in theory, individuals can view particular recent documents if they submit a good case for doing so.

It is difficult to generalise about the huge area of non-governmental records. These are highly diverse and, being private papers, are not always in the public domain, though recent legislation has enabled people to apply to examine even non-governmental records if they can demonstrate the need to do so. As with all record-keeping, much is and must be destroyed, but companies, churches, universities, trade unions, non-governmental organisations (NGOs), and many other civil bodies, as well as individuals, have generated and continue to generate great quantities of material that is in different states of preservation and organisation.

In emphasising the importance of archives, this chapter stresses two areas. Firstly, it emphasises the vulnerability of some provincial records. There is a particular focus on current problems with the management of the records of the Eastern Cape, where there have been attempts to organise the records from the different administrations into which the province was previously divided. Secondly, the chapter stresses the importance of archives in the context of contemporary politics, and the ways in which this importance has been demonstrated in recent times.

## Centre

### *Why history matters*

In the immediate aftermath of the third democratic election, there are reminders everywhere that South Africa's future will be marked by the past. As his speeches commonly are, the President's inauguration speech was saturated in references to history and to its impact on the present.<sup>1</sup> In his 'State of the

Nation' address on 6 February 2004, he undertook to support Freedom Park, being developed on a hill near Pretoria, to challenge 'traditional narratives' on the South African past,<sup>2</sup> and 'other legacy projects that celebrate our humanity, our commitment to the all-round emancipation of all human beings, and human dignity'. This, surely, is a commitment to the past, and to the institutions that enable us to look at it seriously and analytically.

Ironically, given the grounding of the liberation struggle in a historical view, and the marginalising of the majority of the population in history as studied and taught under apartheid, there was a period in the aftermath of the first democratic election when history appeared to be in danger of disappearing from the educational system. It was, for instance, substantially downgraded in the school curriculum (Morrow 2000). A superficial view of the usefulness of history, combined with the apparent fragility of the South African political settlement and an interpretation of the need for political and social reconciliation that confused amnesia with understanding, seemed to make it difficult to adopt a historical perspective.

However, attempts to take a 'blank page' approach, like downgrading history in the school curriculum, appear to have been reversed, and history is back, if at times in the anodyne form of 'heritage'. Professor Kader Asmal, until recently Minister of Education, has spoken frequently and enthusiastically about the importance of history in schools, and for society as a whole, and launched the South African History Project under the aegis of the Department of Education to revitalise and reform school history. 'Historical research', he recently reminded his listeners, 'demands the highest standards of integrity in the use of evidence; it requires skill in the critical analysis of sources and their interpretation; and it depends upon a talent for making connections and developing explanations that will enable us to make sense out of events and processes of the past'.<sup>3</sup> At universities, though it is difficult to generalise, the fortunes of history, which dipped disastrously in the period after 1994, seem at least in some cases to have partially revived.<sup>4</sup> As publicity for the launch of the History Project put it, 'you thought that history was dead and gone? You are wrong!!!!'.<sup>5</sup>

### ***What are 'archives' and why are they important?***

Archives are the incomplete, partial, and often deliberately or unintentionally misleading records of this history, always reflecting the limitations of the envi-

ronment in which they were accumulated. Their definition is potentially very wide. However, here we take a relatively restricted definition: we see archives as material from the past, including the very recent past, written, oral or pictorial, often collected with the purpose of facilitating the contemporary functioning of government, business or other organisations, and/or enabling contemporaries, 'historians' in the broadest sense, to retrieve a sense, or senses, of this past and reflect upon it.

There are vigorous debates, in South Africa and elsewhere, concerning archives, revolving around a postmodernist 'refiguring' (Hamilton 2002). Such approaches tend to stress the often arbitrary nature of documentary survival, and to encourage a critical approach to archives. Archival collections, the argument goes, are, in themselves, constructions of systems of power, never neutral, always contested, and sometimes tendentious. While this argument does indeed need to be constantly reiterated, it is an approach based more on a reading of philosophers such as Jacques Derrida, than on the actual struggles of often sceptical historians with documents that they have long learned to treat as mere approximations to 'truth'. It is an approach that sometimes claims as novel that which many historians have long taken for granted. As early as 1962, in a classic study, the historian and journalist EH Carr (1962) argued that historical sources are necessarily subject to a whole range of questions surrounding interpretation, representation and narrative.

Though in South Africa, as elsewhere, 'the struggle of man against power is the struggle of memory against forgetting' (Kundera 1982:3), this memory is necessarily selective and people do forget, as well as being encouraged to forget. But at least citizens should be enabled to do their own remembering and forgetting, directly or through access to a wide range of evidence-based arguments about their society, rather than having someone else wield the airbrush on their behalf or, less culpably but often causing equal damage, simply losing or mismanaging records. As we will see, these are precisely the contemporary points of tension in this area, with forces pulling in both directions.

### ***The state and its records***

State documents are only a part, though a vital one, of archival records. In the context of the state of the nation, however, they are of particular significance: they certainly do not give a complete picture of the nation, but they do have

the potential to indicate the interaction of the state with its citizens, the internal workings of the state, and its interaction with other states.

As with most departing autocracies, the transition from the South African racial tyranny to the contemporary democracy was accompanied by an 'orgy of paper-shredding' (Frankel 2001:248). Only where the collapse of authority was particularly rapid, as in the German Democratic Republic, did reasonably full records of the more sensitive proceedings of the old regime tend to survive. As Simpson put it, 'in the process of the collapse of East German communism, through popular action, the entire Stasi archive was effectively "captured" before it could be destroyed'.<sup>6</sup>

South Africa's archival record is complex and moulded by its history. It is far larger and generally in better condition than other African archives. Also, because of the particular way in which colonialism and white settlement impacted on the country, more of it is retained within the national borders than in many other African countries. Some state archives are well tended elsewhere in Africa, but many range from slow deterioration to complete destruction, as in Guinea-Bissau in 1998.<sup>7</sup>

### *The National Archives of South Africa*

NASA is a key institution, repository of official documentation, and, increasingly, of documents from non-official sources, including visual and oral material. Its role has been extended from that of its predecessor, the State Archives Service, of simply storing records of state, and it now has the remit of gathering material from previously marginalised sections of the population, and of proactively publicising and making available records to citizens. At the same time, some functions have been transferred to provincial archives. NASA was established in 1997 in terms of the National Archives Act of South Africa. Placed under the Department of Arts, Culture, Science and Technology (DACST) – and, recently, under the now-separated Department of Arts and Culture (DAC) – its public records mandate covers all governmental bodies at central level, including statutory bodies. NASA also has professional control over the records of the South African National Defence Force (SANDF), previously autonomous in this sphere, even though this institution retains its custodial responsibility.<sup>8</sup>

### ***Provincial archives: the case of the Eastern Cape***

The 1996 Act also provided for the establishment of provincial archives whose services were to incorporate those of the former homelands, as well as the components of the former State Archives services located in the provinces (Harris 2000). Some provinces have created or are creating archives services: others have not done so, and are using the services of the regional NASA depots. The condition of provincial facilities ranges from reasonable to appalling. On the whole, this follows predictable lines, in that records of the more privileged areas are relatively well-resourced and preserved, and those which contained ex-homelands are least so. With the exception of Transkei, which had an archives service, the homelands, whether 'independent' or self-governing, had resource centres at places like Ulundi, Mmabatho, Zwelitsha and Thohoyandou where documents were simply stored. It appears, for instance, that the records of the KwaZulu homeland remain in Ulundi where they always were, with no reference to the NASA depots in Pietermaritzburg and Durban. By 1999, the provinces of Mpumalanga and Free State had passed Archives Acts. Recently, North West province has made moves to upgrade the resource centre that kept the Bophuthatswana records. It will be interesting to see how this process unfolds.

The Eastern Cape illustrates the position at its worst, yet the archives of this province are of exceptional significance. The Eastern Cape, a key area of conflict and interaction between colonisers and colonised in South Africa, from the nineteenth century became a focus for the development of African Christianity and education. It was at the heart of new political movements, particularly African nationalism. Under apartheid, the Transkei became the lynchpin of the government's homeland policy, and the model was later extended to neighbouring Ciskei. The new Eastern Cape province has now absorbed these entities, with the official records that they generated, or perhaps, since the bulk of the population lives in them, the ex-homelands have semi-absorbed the Eastern Cape. These records are of particular concern in that they deal with the most underprivileged people in one of the poorest parts of the country – the very kind of people and type of area said to be a vital concern of the new democracy.

In 2001, the Eastern Cape provincial government drafted a Provincial Archives and Records Service Bill that set the legislative framework for the Archives and Records Management Service under the provincial Department

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of Sport, Arts and Culture. Already in 1997 this department had been rationalised to incorporate the directorates of sports and recreation, arts and culture, museums and heritage resources, and libraries and archives.

The Libraries and Archives Directorate had the task of managing the new Eastern Cape archives depot set up at King William's Town, just outside the legislative capital, Bisho. While there remained a plethora of church, university, business, NGO and civic archives in various parts of the Eastern Cape, the King William's Town depot initially focused strictly on state records.

The location, as well as the administration of government archival records and administration of state archival material, in the Eastern Cape before 1997 reflected the legacy of apartheid. Before the King William's Town depot was established, there were two distinct 'official' archival depots in the province. Firstly, there was the Port Elizabeth repository, established in the 1970s, that served as a provincial depot with services linked to those of the Central Archives and Cape Archives Depots in Pretoria and Cape Town.<sup>9</sup> In Port Elizabeth, official records going as far back as before the formation of the Union of South Africa could be accessed. The depot also facilitated access to many records generated within the departmental structures of the central South African government under National Party rule. By the early 1990s, its records, like those of the Central Archives and Cape Archives, were linked to a computerised database of manuscript collections kept in all South African archives depots.<sup>10</sup>

Secondly, Transkei's acceptance of a spurious 'independence' in 1976 resulted in the establishment of a separate Transkei repository in the *Bunga*, or Parliament, in Umtata. This was placed under the homeland's Department of Education and Culture, and kept most of the records generated during the period of administration by the *Bunga* under the Union government. It also kept the records of the Transkei Territorial and Bantu Authority systems from the early 1960s to the mid-1970s, as well as records generated during Transkei's independence from 1976 to 1994. Records were catalogued and the depot had its own published guide. Files could be accessed manually, but were not linked to a computerised database of manuscript collections, as were the records of the Central Archives and South African Provincial Depots (Wotshela 2003).

The new King William's Town depot initially focused on archiving Ciskei government records. During its equally questionable independence, Ciskei never

had a fully-fledged archival repository. Departments kept their respective records and occasionally, after an undefined period, they were transferred to and kept in the Ciskei Department of Education, that in turn transferred them to the Central Archives Depot in Pretoria. This system was fraught with problems, particularly the failure of departments to transfer their records. From its early administrative centre in Zone 6 Zwelitsha (1968-1980), to its new capital in Bisho (1981-1994), stacks of files proliferated along office walls. Some were dumped in foyers and basements of government buildings (Wotshela 2003).

In its initial phase of operation (1997-2000) the Directorate of Libraries and Archives facilitated the transfer to King William's Town of most of the early Ciskei archival records generated by departmental offices when the administrative centre was still in Zwelitsha. These were first housed in a privately owned building, previously Radue Milling Company, for a monthly fixed rent. Parts of the building were converted for office use, accommodating staff members of the four directorates of the Department of Sport, Arts and Culture. A large section of the building was refurbished and provided with temperature-regulated strongrooms with shelves for storage of archival material.

Archiving became difficult because the Directorate of Archives and Libraries was understaffed. This meant that the pre-1981 official Ciskei records, initially housed in Zwelitsha, would take longer to process. Moreover, the staff at the King William's Town repository still had to collect and collate the records generated during this homeland's period of 'independence' from 1981 to 1994. In addition, the new Eastern Cape provincial government retained Bisho as its legislative headquarters. Bisho absorbed much of the former Ciskei and Transkei bureaucracy so that most of the official records that were generated within the homeland structure remained in place, and indeed were added to further.

Like any other bureaucracy, the new Eastern Cape government generated its own records. New and old bureaucrats kept what they wanted and disposed of what they deemed useless. Some experienced civil servants made use of the upheavals to ensure that records of some of their activities disappeared. Files changed hands, and even moved from location to location too rapidly and confusingly for the Archives and Libraries staff to contend with. Again, it

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became almost impossible for some government departments to make space to store their records. By 1995, overcrowding in Bisho had led to the expansion of departmental offices, such as education, health, welfare, transport and public works, to areas such as King William's Town, Zwelitsha, and even to the airport building in Bulembu, near King William's Town, where some personnel records from these departments were moved to a semi-derelict warehouse. By 2001, some were yet to be collected from their originating departments. At a stroke, the provincial government of the Eastern Cape had lost the records of its professional civil servants (Wotshela 2003).

Interdepartmental competition proliferated during the second ANC term in office. The provincial Department of Sport, Arts and Culture embarked on its programme of resuscitating African heritage and creating official museums in African areas. This was tied to tourism, regarded as indispensable to growth and local development in the Eastern Cape. Directorates within the Department tussled for funds and for prestigious outcomes. In the process, the Libraries and Archives Directorate was further submerged. By 2000/01, the Bunga building that held the Transkei repository had to be renovated and prepared for the Mandela Museum. There were initial talks of removing the Transkei archives to King William's Town, or even to the Port Elizabeth repository, but mounting pressure from the Transkei users, as well as distance and the logistics of relocation, meant that they had to be retained in Umtata. There was, however, no space available for them, and in the initial stage of their relocation the files were dumped in the basement of what was now the Mandela Museum building. They were later moved to an adjoining building that was subsequently vandalised. 'Windows were broken and doors were looted and there was even talk of records and leaflets being eaten by mice and some blowing around the town centre.'<sup>11</sup> The deteriorating situation prompted the intervention of the national archivist in Pretoria late in 2001 and it was resolved to return the archival material under special guidance to the basement of the Museum building.<sup>12</sup>

From late 2001, the Libraries and Archives directorate had no choice but to agitate for the renovation of the building adjoining the Museum so that it could be used to store the Transkei archives. While this was still under discussion, the provincial government revoked the DAC's use of the privately-owned building in King William's Town. The fixed monthly rent was a grossly exaggerated R400 000 – an agreement locked in by a ten-year contract.<sup>13</sup> After some four to

five years, and having paid rent of some R20 million, the provincial government finally realised that it could not carry the costs. This meant that the depot in King William's Town had to be closed and the archival material and departmental staff relocated. In a hastily arranged removal, the relocated personnel were squeezed into some of the already congested Bisho offices. There was, however, no alternative storage space in Bisho for the material that had been stored in the King William's Town depot, even though the Bisho politicians had given ambitious promises in the pre-relocation discussions:

We were informed that the provincial government would provide its own repository by May 2002. We understood that the Bisho Pick 'n Pay building would be cleared and certain sections would be converted into offices and strongrooms [archival storage] for the repository to operate there. But this never happened and [akukabikho nto yenzekileyo nangoku] up to now nothing has happened.<sup>14</sup>

From July 2001 the archives that had been in the King William's Town depot were locked in a private container arranged by a removal company, Biddulphs, at a rental fee of about R75 000 per month. This material is not easily accessible to the public and, at times, not even to the staff of the Archives and Libraries Directorate. When rent is paid, access is facilitated. Conversely, 'no rental fee payment effectively means no access to the storage, as well as a possibility of prosecution for default payment'.<sup>15</sup> The Archives and Libraries Directorate could not and cannot acquire outstanding or new records while the only available storage is a privately-owned container. Likewise the processing of records already acquired cannot be completed. 'We cannot work from a storage room that is too full even to fit in desks and no space to move around and sort out files'.<sup>16</sup>

In the meantime government departments continue to keep records internally and some have makeshift in-house records storage facilities. For example, the provincial departments of Agriculture and Land Affairs, and Local Government and Housing, have absorbed most of the Ciskei records on land use, settlement planning and administration. The former Ciskei and Transkei Departments of Agriculture were particularly pivotal in rural planning, possessing technical services with planning divisions as early as the mid-1970s. These divisions administered surveys, planned settlements, ran irrigation

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schemes and even facilitated land allocation. They also administered and managed land use with the assistance of tribal authorities in most of former Ciskei and Transkei rural villages.<sup>17</sup> These records were kept in the Land Use Unit of the Department of Agriculture and Land Affairs in late 2003. Some records regarding the administration and profiles of previous tribal authority areas of the Ciskei and Transkei were moved to the Local Government and Housing Department on the eve of the 2000 local government elections, and they remain there. Records such as these are of great administrative, political and historical significance. Yet at the beginning of 2004 there was, and still is, no functioning depot in the Eastern Cape other than the one in Port Elizabeth that largely remains unchanged from its pre-1994 structure.

Meanwhile the 2001 draft Bill has provided a framework for the future of archives in the Eastern Cape. It provides for the establishment of provincial archives and for the promotion of proper management and care of the records of provincial and local government bodies. It also provides for the preservation and use of the broader provincial archival heritage.<sup>18</sup> For most of 2003/04 the staff of the directorates of Libraries and Archives and of Museums and Heritage Resources have campaigned for various local government offices and government departments to transfer their records to their offices in Bisho, even though there is no depot in place. Public hearings on the 2001 Bill were held throughout the province in the latter part of 2003 (Wotshela 2003).

Despite the problems regarding the setting up of a depot in King William's Town, valuable archives remain in place, though there is not yet a complete guide to them. The archives of the former Ciskei's Department of Foreign Affairs from 1982 to 1994, which were already processed, were transferred from the Central Archives depot. These deal with resettlement on trust land, tribal affairs, transfer of land to Ciskei and such matters, and contain correspondence between South African and Ciskeian officials. Because different individuals moved in and out of government positions, filing chronology is haphazard.

Other records transferred from the Central Archives Depot include those of the Eastern Cape Chief Bantu Commissioner (or Chief Native Commissioner). These contain correspondence between district Bantu commissioners on aspects of African settlement in the 'white areas' of Cathcart, Stutterheim and Queenstown outside Ciskei and Transkei. They cover the period 1966 to 1988.

Records of pre-1981 Ciskei that were brought to the King William's Town repository in 1998 were processed before the depot was closed in 2001. These records, particularly those of the Ciskei Territorial Authority (CTA) that became a semi-legislative body in 1968, are from 1968 to 1980. From this period, CTA incorporated seven government departments: Interior, Works, Chief Minister and Finance, Health, Education and Justice, Agriculture and Forestry. The archived records reflect the wide range of government departmental activities. The following categories, not in chronological order, indicate what has been archived for this period. There are records on Ciskei afforestation; soil erosion and soil conservation programmes in Ciskei; planning of irrigation schemes and water conservation programmes in the Ciskei; Ciskei livestock, Ciskei farmers co-operatives and dairy schemes; urban planning and urban management boards; Ciskei African townships and urban areas of Mdantsane and Zwelitsha; African labour, labour bureaux and tribal authorities; health institutions and health administration in the Ciskei; bantu/regional authorities and the CTA; bantu education, its organisation, control, financial assistance and bursaries; rural trading and business sites in the Ciskei; African extension assistance, African clerks – recorders and interpreters, and regulations for unsurveyed locations in certain districts of the Ciskei.<sup>19</sup>

The fate of these archives, and those in Umtata, remains uncertain. One cannot overemphasise their precarious situation while they remain in makeshift storage. There is a danger of records covering some four decades of South African, and particularly Eastern Cape, history being lost completely. This is not just of academic concern but relates to contemporary and often controversial questions such as landholding, rural development, and the position of traditional leaders. Though the input from the 2001 draft Bill is likely to reinforce the provincial government's determination to institute an archives depot, it has to be asked how such a repository is to be provided and managed. So far the provincial government has shown itself incapable of setting up and managing the King William's Town depot. It utilised large sums of public money (approximately R24 million) for some five years (1997-2001) in leasing space for departmental offices and a repository. For the subsequent leasing period from August 2001, at R75 000 per month, the government has continued to pay substantial sums.

Yet, despite such expenditure there remains no repository in either Bisho or King William's Town. While this problem continues, the proper preservation

of records generated within Ciskei and Transkei government departments and, subsequently, from within the provincial government of the Eastern Cape from 1994 onwards, is unlikely.

### *Non-official archives*

There are numerous private archives in South Africa. A 1999 survey by NASA lists 90, but there are far more than that.<sup>20</sup> Some are dedicated to the records of a particular business, church or other institution. Some, especially at universities and museums, are multi-faceted collections drawn from many sources. Examples are the papers in the William Cullen Library at the University of the Witwatersrand, Johannesburg,<sup>21</sup> the papers in the Cory Library for Historical Research at Rhodes University, Grahamstown, specialising in records of the Eastern Cape,<sup>22</sup> and the archives of the Institute for Contemporary History at the University of the Free State, Bloemfontein, a collection relating mostly to the Afrikaaner tradition in South African politics.<sup>23</sup> Collections such as these are in good condition; others are less so, often influenced by the same factors that affect government collections.<sup>24</sup> Because of a lack of awareness, resources and skilled archival personnel, the loss of important collections of documents from private sources continues.

Since 1994, there have been moves to create archives, generally of oral provenance, that are often designed to rectify previous neglect and marginalisation. Examples are the ANC Oral History Project being carried out in collaboration with the University of Connecticut<sup>25</sup>; the South African Democracy Education Trust<sup>26</sup> (SADET) and the NASA National Oral History Programme.<sup>27</sup>

These are all worthwhile projects. SADET, for example, is not just accumulating oral testimonies, but is also organising and publishing studies of the South African struggle for freedom. However, there is a tendency for such projects to place politics in the foreground, albeit resistance politics: ironically, in the best-funded and most officially favoured spheres of historical and social research, the democratic revolution has been accompanied by a privileging of politics above agrarian, labour, cultural, gender and other areas of social life. Alternative archives are in danger of creating a new narrative that remains overwhelmingly political. There are spheres where this is not the case. To take some varied examples, the Gay and Lesbian Archives,<sup>28</sup> the District Six Museum, the collections of which include archival material,<sup>29</sup> and The Employment Bureau of Africa,<sup>30</sup> are

involved in interesting initiatives that are making possible the exploration of alternative sexualities, local communities and the life of migrant labourers in South Africa and in the southern African region.

### *New technology and South African archives*

All over the world, archives are facing the challenge of the increasing immateriality of records.<sup>31</sup> More and more records are in electronic form, and rapidly changing technology means that even those that are preserved are sometimes difficult to access since the equipment to do so is no longer manufactured and records may not have been converted to currently accessible forms. Ironically, the records of a paper-based administration or business may be more reliably preserved and more accessible than those using electronic means of storage and access.

However, the impact of new technology is unpredictable. It provides opportunities but it also has dangers. Digitisation in particular offers the opportunity to release archives from their site-bound existence, given its potential to separate access to the record from its physical location. This is a revolutionary phenomenon that has had exciting yet also disturbing consequences for South African archives. It can be seen in the context of debates about globalisation, of which this is one aspect.

A number of recent schemes to digitise South African archival material, involving US universities and foundations, have been understood by some as a form of neo-imperial information grab. Amongst the issues that arise are ownership of copyright to digitised material and the physical location of servers. For example, the site of the Mayibuye Archives, an important collection of material dealing particularly with the South African freedom struggle, is now hosted at Michigan State University. Others have dealt rather differently with these issues. The Digital Imaging Project of South Africa (DISA), a South African initiative based at the Killie Campbell Library and funded by the Andrew W Mellon Foundation, set about digitising difficult-to-obtain liberation periodicals from 1960 to 1994, in many cases creating complete virtual runs where none in hard copy actually exist.<sup>32</sup> The intention is to expand this initiative through collaboration with the Aluka Project, which hopes to foster and further expand DISA through links with the resources of large North American foundations.

These examples seem to show that while there may be dangers of the takeover of material by well-resourced First World institutions, South Africa has the expertise to use overseas resources and skills without being overwhelmed by them. There is another side to this, which indeed reflects the debates on globalisation of which it can be seen as a part. It would be a mistake, as Williams and Wallach (2001) imply, to retreat into a 'nationalist' approach that sees archives as a local possession, even a symbol of a unique and closely guarded individuality rather than a universal resource, to be shared with the international community, as South Africans would in turn hope to share the intellectual resources of other communities and cultures.

### *The contemporary politics of archives*

Politics is the mode in which people engage with their society, and the language in which they discuss it. While records have an importance that relates to deeper social currents than is normally the case with day-to-day political engagement, it is important that in that engagement the long-term interests of preservation and access are maintained. South Africa comes from a situation where freedoms of all kinds were circumscribed and denied, including freedom of information. The gains in this area, while remarkable, have a short history, and should not be assumed to be irreversible.

Archives are closely linked to questions of access to information. The Freedom of Information Act in the United States goes back to the 1960s. Internationally, particularly since the end of the Cold War, there has been a move towards increasing freedom of access to information in many democratic states, and towards making contemporary records available to the public for examination. The effects of such availability on what is actually allowed to enter the record is difficult to estimate, given that those recording know that they may be open to scrutiny. It remains also to be seen what the impact of the 'War on terror' and its accompanying security concerns will be on such policies of ready access in countries like the United States.

The South African legislative framework on such access is extremely liberal. The Promotion of Access to Information Act of 2000 goes further than similar legislation in most other countries in that it applies to the private as well as the public sector. Private commercial companies, for example, cannot deny access to their records for *bona fide* enquiries under the terms of the Act. The

Act sets in place mechanisms to assist in utilising it. For example, the South African Human Rights Commission is given various tasks, such as publicising the Act, providing information as to how it can be used, and assisting people to use it. Even where there are restrictions, as in obtaining material concerning defence and security, there is provision for overriding these restrictions when it is considered to be in the public interest. Clearly, this legislation hinges on questions of access to archival material.<sup>33</sup>

However there are cross-currents flowing in this area which seem to represent differences of ideological emphasis within the ANC, as well as the abiding concerns of power and authority when faced with potential questioning of their roles and actions. Governments tend to limit access to documents that it is thought might endanger state security. It is not easy to define with certainty what is or is not a danger to the security of the state and such decisions have to be seen in relation to the interests of those who have something to lose or gain. Those who might have something to hide are not likely to be impartial in deciding on access to information that might be discreditable to themselves. Politicians and functionaries may thus try to impede those with legitimate questions from getting answers, using the argument, difficult to challenge by those outside the magic circle of security and intelligence, of interests of state.

These questions have been raised in several ways, in relation, for instance, to documents of the Truth and Reconciliation Commission (TRC) and to the events surrounding the accusations of spying for the apartheid government made against Bulelani Ngcuka, the Director of Public Prosecutions. However, a good indication of the dilemmas and contradictions in this area is that of access to the archives of the external wing of the ANC itself.

The decision was taken in the early 1990s to deposit the archives of the ANC-in-exile at the University of Fort Hare in the Eastern Cape. The first consignment of documents, those concerning the ANC settlements of Mazimbu and Dakawa, and especially the ANC school at Mazimbu, came straight from Tanzania. The documents and artefacts arrived, unprocessed and unsorted, at the University in September 1992 and once there, the task of ordering and archiving this large collection began. Though secrecy in some areas had been an essential part of operating in exile, in the changing but still unpredictable environment of the early 1990s, the ANC was remarkably open in making

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available an important part of its records for scholarly examination.<sup>34</sup> Subsequently, the records of the ANC's various overseas offices began to arrive in South Africa. They no longer went straight to the University of Fort Hare, but rather to Shell House, now Luthuli House, where it appears sensitive documents are removed, hopefully to be kept safely for a future when it will be deemed possible to release them for scrutiny. This process continues to the present.

The records of a political movement or party are not the same as those of government. Neither is the removal of sensitive documents necessarily in itself a dubious procedure. There may well be medical and other personal records that should not be in the public domain, though even here it can be argued that what is excluded should be identified, so as to give an idea of the dimensions of what is missing. However, this episode does reveal a shift in balance within the governing party, with a moment of openness between exile and office, a utopian pause between the old regime and the new realities, regrettably if predictably giving way to a more secretive mode. It would be wrong to oversimplify – there was plenty of secrecy and suspicion in exile, and the Promotion of Access to Information Act itself indicates that the more open and libertarian tendency within the ANC has by no means disappeared – but it would appear that, as everywhere, civil society, journalists, scholars and the public cannot assume that they will gain easy access to sensitive material. They will have to struggle to achieve and maintain it. To its credit, the government has, in the Promotion of Access to Information Act, created a powerful tool for citizens to do just that. Nevertheless – and this represents a dichotomy within the ANC itself – there appears to be a pervasive suspicion of those who wish to assert the right of citizens to information. To assert these rights costs money and time, and private individuals may be blocked from information by the very difficulty and expense of obtaining it, even if in theory it should be theirs by right.

The South African History Archive, an NGO based at the University of the Witwatersrand, as well as itself creating an archive for material that might not otherwise find a home in one of the established repositories, has assumed the task of testing the parameters of access under the Promotion of Access to Information Act.<sup>35</sup> The most celebrated instance is the long-running contest with government, which still continues, about the fate of 34 boxes of 'sensitive' TRC documents (*Sunday Independent* 18.01.04). This raises many issues,

including the ethics of releasing information that might conceivably destabilise South Africa's carefully crafted status quo, the right of government to determine the status of TRC documents, and the role of the various ministries and agencies – the Justice and Intelligence ministries, the National Intelligence Agency, the National Archives and the Classification and Declassification Review Committee – that have played pass the parcel with the issue, and even, it would appear, with the actual documents (*ThisDay* 2.03.04).

Similar issues arose in relation to the accusations of spying against Bulelani Ngcuka. The cross-examination of the protagonists during the Hefer Commission that followed the accusations, was, fundamentally, an argument about evidence and records. The accusations were shown to be hollow when his accusers could not produce convincing documentary evidence to support their charges.<sup>36</sup>

Again, sensitive issues about the holding of quasi-official records by private individuals and the use by the state of privileged information were raised. Moe Shaik, one of Ngcuka's accusers, produced, and subsequently surrendered to the state, what he claimed was a list of apartheid-era spies that he possessed from his time in ANC intelligence.

Also, the question arose as to why the President, who can be assumed to have access to all the intelligence resources of the state, including its records, could not have short-circuited the political-cum-judicial process and pronounced *ex cathedra* on the veracity or otherwise of the accusations.

There thus appears to be a probably unstable balance in relation to access to information. There is a favourable legislative environment where, for example, the names of more than 7 000 opponents of apartheid whose files escaped the shredders have been released, enabling them, or others, to apply to the National Archives to examine them (*ThisDay* 1-4.12.03). On the other hand, the release of information seems to be resisted, through fighting the release of documents, through the courts, or through an apparent inertia that may stem from a shortage of the expertise to handle the situation or may be due to a more deliberate obstruction. In the words of Dumisa Ntsebeza, the TRC's chief investigator, the practical difficulties of getting information, in spite of the enabling legislation, make the public's right of access to information 'a chimera, an ephemeral right' (*ThisDay* 1.12.03). If this is the case, South African citizens have reason to be very concerned.

### **Conclusion**

Archives are always an incomplete record. Nonetheless, they are crucial, not just for the efficient functioning of government, but also for citizens who wish to participate intelligently in the life of their society. Not many of these are themselves going to search in the archives – though some will, and they should be encouraged and facilitated – but archives provide researchers with the material to fuel well-informed public debate. In South Africa, because of the complexity of its history, there are numerous official and unofficial archives, but they are particularly uneven in their reach. This reflects the influence of earlier class and racial discrimination with, for example, persisting neglect and mismanagement of homeland archives. On another level, the technically more competent system that has its origins in the pre-1994 white administrations is opening itself to more public involvement, and attempting to extend its range currently and retrospectively to encompass the wider population as more than simply the subjects of government. Various non-governmental agencies are involved in similar enterprises.

Archives are an intrinsic part of debates over freedom of information. The tensions between secrecy and openness, control and emancipation, persist. They are embedded in the fabric of government itself, with measures to promote the free flow of information, and yet resistance to the very freedoms that flow from that policy. These issues are working themselves out in a number of prominent specific cases. Behind these lie principles and conflicts that are universal, and can never be finally resolved. However, the balance and maturity of a society is indicated by how judiciously it deals with these issues.

### **Notes**

- 1 See <http://iweb.hsrc.ac.za/virtualLibrary/governmentPublications/mediaBriefings/addressThaboMbekiInauguration.pdf>. Accessed 29.04.04.
- 2 See <http://www.freedompark.org.za/index.html>. Accessed 12.05.04.
- 3 Address by Professor Kader Asmal, Centre for the Book, Cape Town, 31.03.04. <http://education.pwv.gov.za/index.asp?src=mvie&xsrc=355>. Accessed 30.04.04.
- 4 As, for instance, through a focus on oral history at the University of Cape Town: Bickford-Smith V, Field S & Glaser C (2001) *The Western Cape Oral History Project: The 1990s*, *African Studies* 60:5–23; or on public history, memory and identity, as at

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- the University of the Western Cape: <http://www.uwc.ac.za/arts/history/>. Accessed 10.05.04.
- 5 See [http://education.pwv.gov.za/sahp/history/sa\\_history\\_brochure%202.htm](http://education.pwv.gov.za/sahp/history/sa_history_brochure%202.htm) Accessed 29.04.04.
  - 6 Simpson G (1994) *'Truth recovery or McCarthyism revisited': An evaluation of the Stasi Records Act with reference to the South African experience*. Research paper for the Centre for the Study of Violence and Reconciliation, <http://www.csvr.org.za/papers/papstasi.htm>. Accessed 29.04.04.
  - 7 In the discussion group H-AfrArts on 24 September 1998, Claude Ardouin reported that the Guinea-Bissau archives were being used as military dormitories. Documents 'are scattered, shredded and exposed to rain and dirt. Hundreds of audio cassettes which record the history of the national liberation struggle, as told by its actors and witnesses, cannot be found. Hundreds ... which record the oral history of the different regions of the country have disappeared. Photographs and films from the Audiovisual Archives are found dispersed and lying in the mud outside. In other words, entire pages of the history of Guinea-Bissau risk being irredeemably blank or illegible.' <http://h-net.msu.edu/cgi-bin/logbrowse.pl?trx=vx&list=h-afarts&month=9809&week=d&msg=kYFEFmogqQeLuSFwDc0NYg&user=&pw=>. Accessed 29.04.04.
  - 8 The founding charter of the new archival service is the National Archives and Records Service of South Africa Act (No. 43 of 1996). See *Government Gazette* 17471, 2.10.96.
  - 9 The key legislation for the establishment and direction of government archives depots in South Africa was the Archives Act (No. 6 of 1962). This was amended four times before 1980 (in 1964, 1969, 1977 and 1979). Most of these amendments dealt with the regulation and establishment of provincial depots.
  - 10 Interview with Messers van Zyl and de Villiers, Port Elizabeth, 24.08.99. At the time of the interview they worked in the Port Elizabeth and King William's Town depots respectively.
  - 11 Interview with Spikes (pseudonym), at Bisho, 22.07.03. In most cases names of informants and the respective government departments to which they are attached have been withheld for their security. Where appropriate, pseudonyms have been provided. Pseudonyms do not necessary indicate a particular race and/or the sex of informants.

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- 12 Interview with Fana (pseudonym), at Bisho, 22.07.03, and Spikes (pseudonym), at Bisho, 22.07.03; Wotshela 2003:4–8.
- 13 Interview with Fana (pseudonym), at Bisho, 22.07.03, and Spikes (pseudonym), at Bisho, 22.07.03
- 14 Interview with Spikes (pseudonym), at Bisho, 22.07.03.
- 15 Interview with Fana (pseudonym), at Bisho, 22.07.03, and Spikes (pseudonym), at Bisho, 22.07.03.
- 16 Interview with Spikes (pseudonym), at Bisho, 22.07.03.
- 17 The Ciskeian Agricultural Development Act (No. 5 of 1973) gave the Department overall powers to regulate residential land, livestock and access to grazing land, as well as managing agricultural land; Wotshela (2001):1–30.
- 18 See the Preamble to the Provincial Archives and Records Service Bill, 2001 (Eastern Cape):2.
- 19 See the preliminary draft guide for the archives held under the Directorate of Libraries and Archives, Department of Sport, Arts and Culture in the Eastern Cape Province.
- 20 See [http://www.national.archives.gov.za/dir\\_repository1999.htm](http://www.national.archives.gov.za/dir_repository1999.htm). Accessed 8.01.04.
- 21 See <http://www.wits.ac.za/library/campuslib/cullen.html#hlpapers>. Accessed 13.05.04.
- 22 See <http://www.rhodes.ac.za/library/cory/index.html>. Accessed 13.05.04.
- 23 See [http://www.uovs.ac.za/support/library/E\\_library\\_arca.php](http://www.uovs.ac.za/support/library/E_library_arca.php). Accessed 13.05.04.
- 24 The neglect of valuable records that go back to the early twentieth century is illustrated in Morrow & Gxabalashé (2000).
- 25 See <http://www.sp.uconn.edu/~wwwanc/index.html>. Accessed 29.04.04.
- 26 South African Democracy Education Trust (forthcoming) *The road to democracy in South Africa, Volume 1 (1960–1970)*, Zebra Press, is largely based on these oral records.
- 27 See <http://www.national.archives.gov.za/>. Accessed 29.04.04.
- 28 See <http://www.wits.ac.za/gala/archives.htm>. Accessed 29.04.04.
- 29 See <http://www.districtsix.co.za/frames.htm>. Accessed 29.04.04.
- 30 See <http://www.teba.co.za/>. Also telephone conversation with Mr Kevin Cottrell, Regional Manager Gold and Coal, 14.05.04.

- 31 There is a large literature. The website of the International Council on Archives, <http://www.ica.org/> accessed 14.05.04, indicates the preoccupation of professional archivists worldwide with the authenticity, preservation and management of electronic records.
- 32 See <http://disa.nu.ac.za/>. Accessed 29.04.04. For a South African commercial initiative to digitise pictorial images, see *ThisDay*, 9.03.04.
- 33 See, for example, I Currie & J Klaaren (2002) *The Promotion of Access to Information Act commentary*. Cape Town: SiberInk Publishers; J Klaaren, *Access to information and national security in South Africa*, [www.law.wits.ac.za/rula/klaaren.pdf](http://www.law.wits.ac.za/rula/klaaren.pdf). Accessed 30.11.03.
- 34 This enabled a corresponding openness in the literature that emerged: see Morrow 1998; Morrow, Maaba & Pulumani 2004. For reflections on exile, secrecy and records see Morrow, Maaba & Pulumani 2002.
- 35 See <http://www.wits.ac.za/saha/>. Accessed 10.05.04.
- 36 The Hefer report can be read at <http://www.gov.za/reports/2004/heferreport.pdf>. Accessed 13.05.04.

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# 13 *A virtuous circle? Gender equality and representation in South African*

Shireen Hassim

## *Introduction*

In the ten years since the formal end of apartheid, South Africa has attracted enormous interest internationally. One of the most noted features of the new democracy is the acceptance of gender equality as a core value in constitutional and policy terms, and the creation of special institutions for advancing women's interests in the state.<sup>1</sup> In this respect, South Africa is regarded as an example of a successful transition from authoritarianism to democracy, where women's organised struggles have led to tangible gains – what I would call a 'virtuous political circle', in which women's participation is rewarded with shifts in the allocation of public resources to address women's needs. While most of sub-Saharan Africa languishes at the bottom of the Gender and Development Index scale, South Africa appears to offer hope that, if properly constituted, African democracies can overcome the historical legacies of women's subordination and that a virtuous circle will be instituted. For this reason, among others, feminists working with Southern African Development Community (SADC) structures and in association with international organisations, have begun a campaign for increased, even equal, representation of women within legislative bodies in the Southern African region. The South African version of the 50–50 campaign was launched in 2002, and activism around this intensified around the third elections. The 50–50 campaign is firmly on the side of quotas as a mechanism through which increased representation can be secured.

In this chapter I explore the model of a virtuous circle of representation by examining recent experiences of legislative and policy reform in South Africa.

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South Africa is a good case study on which to base a critical analysis of representational strategies because it contains many of the features which are seen to facilitate women's struggles for equity, as well as those which are seen as key obstacles. It sits at the intersection of Third-World democracies which struggle with weak institutions, poor resources and resistant civil society and First-World democracies in which state institutions are strong, formal attention to gender equality is a matter of course, and the economic ability to deliver sometimes expensive gender-equitable policies (such as paid maternity leave, state-subsidised child care and so on) is much greater. South African processes of democratisation challenge assumptions of many Third-World women's movements that the state and political parties are 'empty shells' and that rights are unlikely to impact on the systemic inequalities of gender. In South Africa, perhaps more than any other country on the African continent, feminists have engaged political parties as serious actors (Goetz & Hassim 2003). This engagement resulted in significant victories, and the constitutional commitments to gender equality and the socio-economic rights clause are both regarded as vital resources by feminist activists. They argue that rather than seeing rights as limited to the formal political sphere, rights-based strategies have the potential to transform the conditions of people's lives.

This review of the state of the nation, coming ten years after the inception of democracy, is also a good point historically to review the impact of increased representation of women in the state. Apart from the global 50-50 campaign, the advent of a third set of elections denotes a new phase in South Africa's democracy. Although it is difficult to denote a 'moment' which marks the maturation of a democracy, or even an 'end' to the transition, political party rhetoric has moved from a focus on institution building and the development of policy and legal frameworks to a phase of consolidating democracy through policy implementation and service delivery. Although processes of identity formation are an important part of groups' abilities to make claims on the state, quota demands in themselves are a relatively superficial way of developing collective identity. In the context of policy implementation, the challenges centre much more firmly on questions of *how* interests are articulated, on *what* interests are being represented and by whom, and on the relationship between representatives and the represented.

***Participation, representation and equality:  
understanding the terms of the debate***

Turning particularly to the idea of a virtuous political circle of representation, each of the 'drivers' – participation, representation and equality – deserve closer interrogation. What forms of *participation*, underpinned by what kinds of ideologies and in which arenas, are most likely to facilitate a gender equity agenda? How can effective *representation* be secured in the context of considerable institutional bias against women's presence in the public sphere? And finally, what kinds of policy *outcomes* are desirable from the point of view of different constituencies of women?

Increasing women's participation in decision-making is a key part of the model. However, there are differing views on what constitutes participation. The thinnest definition (which is often evident in discussions of quotas) is that the mere presence of women in parliaments shifts 'the patriarchal demeanour of political institutions'<sup>2</sup> and forces institutions to recognise women. Anne Marie Goetz and I (Goetz & Hassim 2003) have distinguished this from effective participation, where the emphasis is on more effective interest articulation and representation – that is, to make the 'voice' of women louder. However, as Goetz points out, we should be careful not to assume that amplified voice 'will automatically strengthen the moral and social claims of the powerless on the powerful and produce better accountability to that group' (2003:34). Institutional norms and procedures, and the nature of processes of deliberation, can undermine the extent and impact of women's voice in the public sphere. As Fraser (1997) has pointed out, even though the formal blockages to women's participation in parties and parliament may be removed, it is much harder to deal with the subtle patterns of deliberation that uphold particular power relations. Drawing on Mansbridge, she argues that 'deliberation can mask domination' as 'social inequalities can infect deliberation, even in the absence of any formal exclusions' (Fraser 1997:79).

Similarly, the nature of representation is a matter of considerable debate. Mahon and Jenson (1993) have pointed to two forms of representation. The first form is the 'representation of self to others via the creation of a collective identity' (Mahon & Jensen 1993:78). The second form is interest representation through parties and civil society organisations. Both forms are important because they involve 'the power to give meaning and visibility to social rela-

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tions, and thereby the power to represent and dispute interests' (Mahon & Jensen 1993:78). Quota demands tend to emphasise the creation of collective identity; they rest on the successful articulation of women's group-based interest in entering arenas of power. This strategy derives from the marginal status most women occupy in society, and entails a collective demand for recognition that can win support across class, race and ideological lines. Interest representation, on the other hand, may shatter the notion of women as a homogeneous group as the resource claims of some women based on their class and/or race disadvantages may come into conflict with the interests of other women, or require privileging the building of alliances with other social actors. In the South African experience, these forms of representation have not been seen as contradictory, but rather as being in creative tension.

The tension between identity formation and interest articulation is also addressed in Fraser's formulation of the differences between struggles for recognition and struggles for redistribution. For Fraser, gender is a 'bivalent mode of collectivity' (1997:20), having the face of cultural devaluation as well as being economically rooted. Women's struggles for justice thus encompass both struggles for recognition as well as struggles for redistribution. Recognition entails the constitution of women as a group, while redistributive struggles demand the deconstruction of women as a group and the articulation of poor and working-class women's claims in alliance with other social forces. Seeing representation through the recognition-redistribution lens offers new ways to think about the possibilities and limits of South African struggles for gender equality. Clearly the formation of women's collective identity was bolstered in the last ten years; women were 'recognised' in official discourses in ways that were barely imaginable in 1994. However, it is not so evident that women were able to use this recognition effectively as a lever to ensure that inequalities based on gender in the economy and in society were addressed. I will address this question more directly in the discussion of the politics of the Communal Land Rights Bill (CLRb).

A central problem with the ways in which representation is debated is that increasingly the issues have become limited to pro- or anti-quota arguments. Although it is generally accepted in feminist literature that a combination of factors is responsible for women's increased access to political office – the nature of the political system and the organisation of political competition, the nature of civil society and especially of the feminist lobby within it, and

the nature and power of the state – all too often actual political strategies are collapsed into a demand for a quota. This is not surprising; it is without doubt more difficult to reshape the nature of the political system except, as the South African case demonstrates, during periods of major transition. Quotas are seen as a fast-track mechanism to cut through more intractable institutional blockages, to at least get ‘a foot in the door’ of the political system. Quotas are also politically cheap in political systems where there is a single dominant party; extending a quota to women does mean that some men will not get onto party lists, but with sufficient power a dominant party can in any case deploy men to other important positions in the state and in parastatal organisations. Advancing women into prominent positions is also relatively costless electorally when you have the combination of an electoral system of proportional representation (PR) with list and a dominant party. The form of the quota adopted in South Africa is in fact its weakest and simplest version: voluntary party quotas are a long way off from the legislated quotas that operate in Argentina, for instance.

Processes of representation also matter from the perspective of effective representation. Electoral systems play a key role in determining the nature of the relationship between elected representatives, political parties and constituencies. The PR system, which has had such distinct advantages for women in pushing recognition claims, may have a different impact on redistributive demands. The PR system privileges power brokerage within political parties over constituency formation and representation. The result is that what happens within political parties – the struggles within parties to make gender equality part of the policy programmes – has an important bearing on policy outcomes. The ability of women representatives to mobilise within their parties and their willingness to challenge party hierarchies, is an important determinant of the extent to which women will be effectively represented.

Looking finally at the nature of policy outcomes, there has been surprisingly little debate since 1994 about what gender equality would entail. In the apartheid era, a clear line was drawn between struggles for formal equality and those for substantive equality. Formal equality – the achievement of equal rights and opportunities – was regarded as an inadequate conceptualisation of liberation. What was needed was substantive equality, understood as the transformation of the economic conditions which produce gender equality.<sup>3</sup> The Women’s Charter for Effective Equality, adopted by the Women’s National

Coalition in 1994, articulates a notion of equality which is closer to the vision of substantive equality, with a very clear emphasis on the structural and systemic underpinnings of women's subordinate status (WNC 1994). I would argue that a strong notion of equality, one that would provide some guidance about appropriate policy choices, would rest on the degree to which women have autonomy and are able to make choices free of the constraints of care work within families and communities, as well as free of the pressure to remain in oppressive and violent relationships (Orloff 1993).<sup>4</sup> This notion of equality has specific implications for social policy, as it would require that resources be directed in such a way that they serve not only to address the needs of the poorest women, but are also become part of an incremental process of enhancing women's autonomy.

In sum, while increasing women's representation is important at the broad political system level, it is also important to examine critically the processes of representation, as well as the ways in which women's interests are conceptualised. We need to examine how different groups of women are 'constructed' for the purposes of policymaking, particularly in relation to other claimants on public resources, the ways in which the needs of different groups of women (in alliance with other social formations) can be articulated, and what implications this has for what can be claimed as a social policy entitlement.

### ***Attributing gender equality gains***

The first five years of democracy (1994–1999) was a period which was dominated by the need to elaborate the rules, procedures and norms of the new institutions, policies and laws. This period saw an intense preoccupation with outlining policy frameworks and creating enabling legislation in a vast number of areas. The most prominent gain for the women's movement was the ANC's eventual acceptance of an internal quota, and the well-known effects this engendered in putting a 'critical mass' of women into Parliament (Ballington 1998; Fick, Meintjes & Simons 2002; Mtintso 1999). Several far-reaching pieces of legislation were passed in the first term. The Termination of Pregnancy Act of 1996 provides women with access to abortion under broader and more favourable conditions than previously. The Domestic Violence Act of 1998 provides protection against abuse for people who are in domestic relationships, regardless of the specific nature of the relationship

(that is, whether marital, homosexual or family relationships). It is a highly significant piece of legislation in that it entails a recognition that the 'private' sphere of the family is not inviolate from the democratic norms established by the Constitution, and that women are entitled to state protection of their rights even in the private sphere. The Maintenance Act of 1998 substantially improves the position of mothers dependent on maintenance from former partners. The Recognition of Customary Marriages Act of 1998 abolished the minority status of women married under customary law, and legalised customary marriages. In addition, a number of policy programmes were introduced, such as free healthcare for pregnant women and children.

During this period, there were also significant gains in embedding gender equality concerns in the broad frameworks of law and policy which have been well-documented (Albertyn 1999; Gouws 2004 [forthcoming]; Hassim 2003). A number of areas of legislative discrimination against women remain intact, and there are other areas in which legislation is needed to enable the freedom of women. While discussion of these is beyond the scope of this paper, it is important to examine the strategic routes through which legislative gains were achieved, and the conceptual underpinnings of key policies. In the next section I examine, firstly, the politics of achieving legislative change, and secondly, what kinds of assumptions about gender are embedded in new legislation and policy.

### ***Representation and legislative change***

Several researchers have found that it was initially difficult for women Members of Parliament (MPs) to define strategies for legislative intervention (Britton 1997; Case 1999; Mtintso 1999). Their immediate challenges in 1994 were to understand how Parliament itself worked, and to address the culture and working conditions in Parliament so that their participation would be facilitated. The differences between women also emerged very quickly as the 'critical mass' of women came to grips with the real differences in legislative and policy priorities between different political parties. The establishment of a multi-party women's caucus (the Parliamentary Women's Group) failed to provide either a support structure or a lobbying point for women MPs. The ANC Women's Caucus, by contrast, acted as the key pressure point within Parliament, even within the multi-party Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women (hereafter referred to

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as JMC). The most notable example of the tension this engendered was the process surrounding the introduction of employment equity legislation. ANC women MPs worked extremely hard to ensure that women were recognised as a disadvantaged group in the new laws. However, Democratic Party (DP) women MPs voted against the legislation because the party as a whole was opposed to the imposition of strong labour market regulation. The JMC – under the chair of experienced gender activist Pregs Govender<sup>5</sup> – established in part as a consequence of the new government's signing of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (Cedaw), provided an important institutional forum within which to identify a set of legislative priorities and begin to lobby for policy changes. Indeed, this committee demonstrated the most significant positive impact of representational strategies. Working closely with civil society through a series of public hearings and expert submissions, this committee arrived at an independent assessment of the nature and scale of the HIV/AIDS crisis, for instance, and called on Parliament to make eradicating the disease and dealing with its effects the number one priority. Despite ANC and presidential pressures, ANC members of this committee, led by Govender, stood firm on the need for anti-retrovirals. The committee was also the only parliamentary committee to openly oppose the arms deal. At the opening of Parliament in 2003, Govender joined the Treatment Action Campaign (TAC) outside Parliament, rather than take her seat in the house. Addressing Mbeki directly, she said 'It is time for my President to say no to so much unnecessary death, to so much grief, to so many wars'. This is an important indication of the willingness of a few MPs to challenge the party in the face of contestations between different interests. It is not insignificant, however, that Govender resigned from Parliament at the end of the 2002 session.

Looking more closely at the legislative gains made in the first five years, it is important to analyse how changes were introduced, and whether the impact of women in Parliament is sustainable, and not dependent on exceptional MPs such as Pregs Govender (who would probably have been on the ANC list without a quota). What is notable about the processes of bringing in new legislation was that the linkages that existed between gender activists in civil society and the ANC, in particular (though importantly not solely) ANC women MPs, was crucial. In the first years of the new Parliament, gender equality was not prioritised as an area for legislative attention, despite the formal commit-

ments. Legislation dealing with women's inequality was only placed on the parliamentary calendar in 1998, towards the end of the first term of Parliament, and only after high-level lobbying by the ANC Women's Caucus, with the support of progressive men MPs, including, by some accounts, President Mbeki. The legislation then had to be fast-tracked through the National Assembly so that the first Parliament would be seen to be concerned with gender equality as a substantive issue. The key advocates for the legislation were women MPs who would in all likelihood have been on the ANC list regardless of the quota, and male MPs who had a commitment to gender equality. Pressure to push the legislation through before the end of the first term came from gender activists outside the state. In the case of the Termination of Pregnancy Act, the proposed legislation was consistent with the ANC's health policy and with its electoral platform (the Reconstruction and Development Programme), which included reproductive rights. This pressure had been exerted within the ANC before quotas were introduced. The key interventions here related to processes of democratisation within the party, supported by constitutional commitments (notably also achieved through internal party pressure and constituency building rather than a politics of presence).

External pressure on Parliament was particularly evident in putting a Termination of Pregnancy Bill before Parliament. Pressure was exerted by the Reproductive Rights Alliance, which had been formed in 1995, in part to advocate for progressive pro-choice abortion legislation (Albertyn 1999). In 1996, the Reproductive Rights Alliance appointed a lobbyist to work in Parliament for the duration of the law reform process. Women's health and legal advocacy groups used the parliamentary hearings to push forward a pro-choice agenda. Albertyn comments that, 'the Committee hearings provided an opportunity for progressive organisations to develop and rekindle working relationships with former health and women's rights activists now in Parliament' (1999:71). Indeed, rather than interventions of women MPs *per se*, Albertyn's account of the politics surrounding this legislation suggests that it was the historical relationship of trust between activists outside government and the ANC that facilitated the passage of legislation.

While the reproductive rights example points to the value of the relationship between women activists in civil society and women in Parliament, the political process surrounding the Domestic Violence Act (1998) identifies the sup-

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port of senior members of the ruling party as the critical lever. As with reproductive rights, violence against women was an area that had been highly organised prior to 1994. Meintjes (1999:137) points out that by 1995, links had been made between the 'violence lobby' and key people in government, especially the Minister of Welfare and Population Development Geraldine Fraser-Moleketi and the Deputy Minister of Justice Dr Manto Tshabalala-Msimang, both of whom were gender activists in the ANC. Advocates of legal reform were greatly assisted by the fact that the government had ratified Cedaw in December 1995, three months after the Beijing Conference. In line with Cedaw and the Beijing Platform for Action, the government was required to ensure that steps would be taken to eradicate violence against women. The government entered into a partnership programme with civil society organisations, resulting in the National Network on Violence Against Women, which included government departments and non-governmental organisations (NGOs). By early 1998, however, no Bill had been tabled before Parliament; nor did it seem likely that the Law Commission, responsible for overseeing the legislation, would be able to prepare a Bill before the end of the first government. The ANC Women's Caucus was able to secure the support of the (male) Minister of Justice and the (male) Chairperson of the Justice Portfolio Committee to expedite the production of a draft Bill (Meintjes 1999).

Although an array of institutions, known collectively as the national gender machinery, was created to give women access to decision-making, in the first five years of democracy these were not influential in setting the policy agenda for gender equality. In terms of the legislative changes, Meintjes comments of the Domestic Violence Act, that the Commission on Gender Equality (CGE) and the Office of the Status of Women (OSW) were 'conspicuously ineffective' (1999:144). Lack of resources, institutional resistance and, not least, the reluctance of the leadership in the OSW to openly challenge the ruling party, undermined the effectiveness of the government machinery. However, the anti-political tendencies in the bureaucratic sphere were countered by the strong core of feminists in Parliament and in civil society, which in many cases bypassed the machinery to ensure legislative and policy change. As Albertyn, Goldblatt, Hassim, Mbatha and Meintjes argue, "gender sensitive" women and men holding diverse positions of power and influence in state institutions were far more important in ensuring that gender issues were placed on the policy agenda' (1999:149). In particular, they found that the ability of feminist

politicians to lobby successfully within the ruling party, and their networking capacities outside of government, outweighed the role of structures such as the OSW.

What of the CGE, the institutional centrepiece of the new national machinery? Set up with extensive statutory powers, the CGE 'appeared to offer remarkable promise for feminist intervention' (Seidman 2003:551). However, as Seidman (2003) has argued, for several years the CGE battled to define how the organisation should represent women, and on what issues they should be represented. Seidman argues that the CGE vacillated between a mobilising role and a representative role, neither of which in fact accurately captured the remit of its constitutional mandate to act as an oversight and accountability mechanism in relation to progress towards gender equality. CGE submissions on key policy issues were often poorly drafted; in High Court and Constitutional Court cases the CGE played a secondary role to NGOs. Appointments to the CGE have not always been based on the best available gender expertise. Rather, they seem to be driven by considerations of party loyalty and mobility as much as by a track record in gender activism.

In more recent years, however, there have been significant changes in the ways in which the national machinery works, spurred in part by heavy criticism at the National Gender Summit in 2001 and by women's organisations in civil society, and in part by new commissioners in the CGE and greater openness in the OSW. New decision-making procedures were put in place and a system for co-ordinated action around legislative and policy intervention appears to be working quite well.<sup>6</sup> As the discussion of the CLRB below demonstrates, the CGE has also developed its 'voice' in relation to legislative and policy processes, and took the lead in challenging the bill.

### *Conceptualising gender equality in key legislation*

At a conceptual level, the extent to which gender-sensitive legislation and policies significantly advance equality, if this is understood as increasing women's choice and autonomy, is uneven. A number of 'victories' have been limited to women's rather than gender concerns. There have been gains in areas where women have clear and definable gender needs that do not impinge on (or impinge positively on) men's needs and interests (for example maternal health), while areas in which attention to women's gender needs might chal-

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lenge the power of some groups of men (for example, land rights) have been slower to change, or have not changed. Many of the gains that have been made in advancing gender equality are made on the basis of addressing 'family failures' and children's needs, rather than directly empowering women. Thus, for example, free healthcare for women has been supported because maternal health is seen to be crucial (in an ironic twist, HIV-positive pregnant women get antiretrovirals in doses large enough to protect the newborn baby but too small to be effective for the mother). Similarly, the Maintenance Act, which empowers the state to hold defaulting parents (mainly fathers) accountable for debts, has won support in government not least because it entrenches the notion of privatised responsibility for children. Discourses of violence against women can also easily fall back on notions of women's vulnerability and on the idea that the role of the state is to protect women and children when families fail.

Yet, despite these problematic assumptions underlying policy, the legislation has been claimed by women's organisations as a significant example of the benefits of increased representation. This is understandable in the context of the strong maternalist tradition in women's movement politics, in which women have been politically mobilised on the basis of their familial ideologies. There is indeed a consistency in the group-based difference strategy of quotas and the strategy of addressing women's group-based needs. In policy terms, this has translated into a demand for women's caring work to be validated as socially useful and as a legitimate basis for policy. However, as comparative welfare state literature shows, this kind of politics can have contradictory outcomes. Bolstered by feminist lobbies, the recognition for care work can lead to the introduction of state-sponsored or subsidised crèches and old people's homes, and for extensive maternity leave privileges (as in Britain, Norway and more recently Sweden) (Giullari & Lewis 2003). As Kathryn Sklar (1993) has noted, policies in relation to children's welfare, although often driven by women on the basis of a maternalist politics, can become 'an entering wedge for the extension of state responsibility to other groups' (1993:50). On the other hand, when these policies are supported by relatively conservative governments, as in the US, they lead to grants directed at children which do not shift ideologies of privatised and gendered caring.

In South Africa, a strong maternalist emphasis is particularly evident in social welfare policy. The *White Paper on social welfare*, gazetted in February 1996

and adopted in 1997, is an interesting example. In yoking the cultural concept of 'ubuntu' (humanity) the White Paper signals the importance of cultural norms and values, particularly the principles of caring and mutual interdependence. However, the emphasis on the *cultural value* of caring is not accompanied by a recognition of the *work* of caring. This could be seen as loading the dice against women, who bear the practical burdens of care-work within families and communities. As Lund, Ardington and Harber note, 'a double equation is at work which assumes that community care is equal to care by families which is equal to unpaid care by mostly women' (1996:115). Walker makes a similar point in relation to the ways in which community is conceptualised in land reform processes. She notes that, 'there are no clearly sexed (and sexual) beings in land reform. Instead there are "communities", within which the normative being is male, appended to which there is (from time to time) "gender" which refers, dimly, to women' (Walker 2003:127). The discussion of the CLRБ below demonstrates the extent to which an emphasis on community can deny the rights of women.

Obscuring women's specific burdens under the content-less rubric of gender has real consequences for how effectively the state is able to address those burdens, as well as for the extent to which social policy expenditures begin to shift relations of power between women and men. Women's caring burdens have, for example, increased dramatically as the HIV/AIDS infection rates have assumed pandemic proportions. The shift away from the language of rights and entitlements in the *White Paper on social welfare* would seem to dilute the particular (and greater) responsibility of the state in meeting social security needs through the redistribution of public resources. Since the adoption of the White Paper, moral discourses continue to infect social security provision, with criticisms that the child support grant is responsible for increasing teenage pregnancy (girls getting pregnant in order to access cash), that women are spending the money on 'clothing and lipstick' and that it has fostered a culture of dependency on handouts from the state. Newspaper reports castigate 'runaway mothers' who 'claim the child support grant meant to feed their offspring' (*Sunday Times* 23.02.03). Even the Chairperson of the CGE had to be gently reminded by feminist activists not to fall into the trap of stereotyping women receiving the child support grants as undeserving.

These examples highlight the importance of recognising that state institutions and actors are embedded in social relations. The ideologies that derive from

the organisation of gender relations in the family and community shape the ways in which policies are drafted and the assumptions, often hidden, which underlie particular policy paths. There is an interesting disarticulation between the assumptions of the gendered nature of care work in the *White Paper on social welfare* and the emphasis in the Constitution on women's autonomy. Care work is certainly 'recognised' in the White Paper but that recognition is not presented as the opportunity to shift the burdens away from women. The caring model, while ostensibly valuing collective social responsibility, does not value the importance of women's autonomy from the expectations of family and community. Collective social responsibility is in effect privatised rather than made a responsibility of the state, and the opportunity to create the conditions for women to exercise their agency in a variety of social and economic arenas is lost.

### ***The Communal Land Rights Bill***

The real test of whether the representation model would work is to consider what would happen if women's organisations were to push for legislative changes that would directly challenge entrenched patriarchal interests – that is, to demand changes on the basis of their gender interests rather than women's needs. The contestations over the CLRB are an instructive case study in this regard, for a number of reasons. The contestation between women's organisations and traditional leaders dates to the Constitution-making period, when the principle of gender equality was opposed by some traditional leaders, setting the stage for a protracted conflict. The Constitution itself validated both equality and cultural autonomy, while placing equality as the 'trump' criterion in cases where both came into conflict. In the proposed new legislation in 2003 (the Traditional Leadership and Governance Framework Bill [hereafter referred to as 'the Framework Bill'], championed by the Portfolio Committee on Provincial and Local Government, and the CLRB, supported by the Portfolio Committee on Land and Agriculture), concerns about gender equality once again came up squarely against those of traditional leaders. At issue in this particular contest was the extent of traditional leaders' formal authority over land allocation in rural areas. The CLRB was set to become the biggest test of the extent to which a constituency of (rural) women could successfully defend their policy claims against other powerful interests.

Fairly soon after the first democratic elections, the new Minister of Land Affairs, Derek Hanekom, proposed the introduction of legislation that would shift control of trust land, including a significant proportion of land in KwaZulu-Natal held under the Ingonyama Trust, back to central government. Although the proposed legislation would include a variety of different forms of land and property, traditional leaders treated this as a direct attack on their traditional authority. Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi went as far as to call it a 'severe provocation' to the Zulu nation (*Mail & Guardian* 13.10.95). The opposition of traditional leaders was strong enough that the ANC feared an electoral backlash, particularly in KwaZulu-Natal, and the proposed legislation was shelved. After the 1999 elections, the new Minister of Land Affairs, Thoko Didiza, announced that a Land Rights Bill would be introduced in April 2001. Again the Bill was not published, although Minister Didiza undertook to publish the Bill following discussions at a national conference on land rights held in Durban in November 2001.

Discussions of the new CLRB at the Durban conference provoked deep divisions, even within the ANC. The Bill recognised 'communities' as juridical persons and proposed to transfer state land to communities. ANC MP, Lydia Kompe-Ngwenya, a veteran land rights activist, rejected this proposal, arguing that the land rights of individual users and occupiers needed to be recognised and protected in law, in accordance with the Freedom Charter. Her party colleague, and leader of the Congress of Traditional Leaders of South Africa, Nkosi Patekile Holomisa, on the other hand, argued that the legal title to communal land should be bestowed on the traditional authority. For the traditional leaders, the bill did not go far enough in securing traditional authority, as communities would now have rights. For women, on the other hand, the emphasis on communities reinstated the power of traditional leaders as they became the officially recognised representatives of community interests.

Traditional leaders vociferously opposed the eighth draft of the Bill, published in August 2002. This draft proposed the creation of land administration structures which would comprise community representatives as well as traditional leaders, although traditional leaders would only constitute 25 per cent of the council. Communities would be given discretion as to whether the land would be held by communal title or subdivided and registered in the names of individuals. The anger over this reallocation of land authority was so strong among some traditional leaders that many felt it would take violent forms.

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The IFP Women's Brigade and Youth Brigade threatened retribution if the bill went through Parliament. The *Sunday Times* (22.1.03) reported an Ulundi resident as saying, 'If the bill is passed it will be understood that any tribe member who applies to own land can be killed or have their house burnt down. Many will be happy to strike the match.' Mbeki shifted from his conventional friendly tone to traditional leaders to warn that the government would not tolerate violence (*Mail & Guardian* 1.11.02).

Despite the President's firm warning, the threats of electoral retaliation and political violence in KwaZulu-Natal seemed to have an effect on legislators. In July 2003, an informal group of experts meeting in Pretoria warned that the government needed to prioritise land and agrarian reform to avoid political instability in South Africa (*Mail & Guardian* 31.7.03). At the same time, there was considerable pressure from civil-society actors to move ahead on finalising the Bill. In October that year a final draft of the Bill was published, this time containing last-minute alterations which provided that traditional councils, set up in line with the Framework Bill, would have powers of land administration, allocation, and ownership in communal areas. Cabinet endorsed the Bill and announced that it wanted the Bill enacted before the 2004 elections, leaving under a month for the Bill to pass through the appropriate parliamentary processes.

The issue of women's rights remained unresolved. The Framework Bill provided for 30 per cent representation of women in traditional councils. It also provided that, while 40 per cent of the members of the council were to be elected, the remaining 60 per cent 'must comprise traditional leaders and members of the traditional community selected by the principal traditional leaders concerned in terms of custom' (Section 3[2][b]). The Bill also gave the Minister of Agriculture and Land Affairs discretionary powers to determine the nature and content of land rights, without their consultation or consent. This was in part a response to the concerns of women's organisations that gender equality issues might not be automatically taken into account, or might be overridden by the traditional councils. In these cases, the Minister would be able to confer rights to ownership or occupation on women. These changes were far from satisfactory for traditional leaders, who saw them as further eroding their authorities. Tensions – between the IFP and ANC in particular – escalated. Buthelezi claimed that the ANC had reneged on its agreements with the IFP before and after 1994, commenting that relations between the two parties 'have never been worse' (*Mail & Guardian* 15.11.03).

Despite the concessions to women's representation in the amendments to the Bill, reactions from women's organisations and land NGOs were equally vociferous, albeit without the threats of violence.<sup>7</sup> There is not the space in this chapter to detail the objections or to delineate the sometimes fine differences between different civil society groups. I will concentrate on the objections relating to women's rights. The key objections related to the failure of the Bill to protect the rights of rural women, the undemocratic nature of the traditional councils, and the entrenchment of the control of chiefs over key aspects of women's lives. Both the Programme for Land and Agricultural Studies (PLAAS) and the CGE, in their submissions in November 2003, argued that the Bill's aim to restore so-called 'old-order rights', which had become legally insecure as a result of apartheid laws, did not adequately address the demands of gender equality. Under customary law, as well as under apartheid law, women's rights in land were derivative and temporary. Women could not own land or occupy property in their own right, but were dependent on male spouses or customary partners. They lost these rights upon the death of the male spouse, in part also as a result of the principle of male primogeniture which required that property be passed to the nearest male relative. This principle was upheld as recently as 2000 by the Supreme Court of Appeal (Budlender 2003). PLAAS researchers found that most traditional leaders continue to refuse to allocate land to women. While earlier versions of the Bill had explicitly provided for the right to gender equality in respect of ownership, allocation, use of or access to land, this provision disappeared from the final version of the Bill. There was no longer any provision clearly banning discriminatory practices. Similarly, there is no injunction that the rules devised by communities to govern the administration of communal land must comply with the equality clause in the Bill of Rights, although earlier versions of the Bill did make such provisions (PLAAS 2003). Women's concerns were partially addressed by the Portfolio Committee: the proportion of women on the councils was raised, and the Minister's discretionary powers would include oversight with regard to gender discrimination.

However, the CGE and PLAAS opposed the discretionary power of the Minister in principle. The two concerns in this regard were firstly that gender equality, as an entrenched right, should not be subject to discretion, particularly in view of the many documented cases of male officials turning a blind eye to women's complaints (CGE submission), and secondly, that the discre-

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tionary power created the conditions for a potential abuse of power. Finally, a wide range of organisations opposed the proposal that traditional councils should be nominated rather than fully elected bodies. PLAAS (2003) pointed out that the Framework Bill 'gives tribal authorities perpetual life and the Communal Land Rights Bill gives them powers over land that surpass any that they previously enjoyed.' The organisation argued that 'it is very likely that the 30% quota will come from the royal family and be comprised of female relatives of the chief. Can women handpicked by chiefs really be relied on to represent the interests of ordinary rural women, and to address the legacy of gender discrimination against women practiced under customary law?' (PLAAS 2003). The JMC pointed out that women would be a permanent minority on traditional councils, and requested that a quota of 50 per cent of seats be allocated. The CGE warned that the creation of non-elected bodies with decision-making power over women's access to key economic resources set up a form of secondary citizenship for black rural women, who would be discriminated against on the basis of both race and gender.

This rather truncated narrative of the debates around the CLRBR raises crucial questions about the power of women's organisations and women's representatives in Parliament to successfully defend women's rights. Rural women have never been strongly organised in South Africa. In many instances, rural NGOs with dedicated feminist activists (such as the Association for Rural Advancement and the Transvaal Rural Action Committee [TRAC]) spoke on behalf of rural women, and attempted to give profile to their specific concerns. However, there has been little independent organisation of women and in policy terms there was certainly not the kind of organisational base and resources that either the Reproductive Rights Alliance or the Network on Violence Against Women, for example, could draw on. In the late 1980s and early 1990s, the Rural Women's Movement (RWM) emerged, supported in the initial stages by TRAC. The RWM was able to make significant inputs to the Women's National Coalition and in the Constitution-making process, and acted as a national voice for rural women. However, by the time the Framework and Communal Land Rights Bills were introduced, the RWM was a virtually defunct organisation which had collapsed under the weight of financial and administrative problems. Local rural women's groups therefore lacked connection to urban-based policy debates. As Claasens and Ngubane (2003) point out, 'there are vibrant groups of rural women, keen and com-

mitted to supporting one another and organising around these issues. However there are currently no resources available to enable rural women to come together on a regular basis to take these matters forward...nor...are there provincial or national rural women's organisations that can support and co-ordinate the process of organising rural women.'

Consultations with rural women over the Bills were facilitated by research organisations and NGOs such as TRAC, PLAAS and the National Land Committee (NLC). This process was both enabling and problematic. It made it possible for rural women's concerns to be heard by the legislators in the absence of parliamentary hearings in rural areas. Rural women's concerns were thoroughly 'mainstreamed' in the PLAAS/NLC submission to parliament. The CGE played a leading role in highlighting rural women's interests and concerns, testament to the more effective advocacy role it has adopted since 2002. However, the alliance with, and representation, by urban-based land rights NGOs also had drawbacks. Firstly, some of these NGOs were labelled by ANC MPs as 'ultra-left' critics and, while they had a strong voice, it was not always an influential voice. Various interviewees noted the subtle ways in which some NGO representatives were ignored and even belittled. Secondly, even with the best of intentions, NGOs did not always foreground issues of gender equality in their strategies. Finally, many of the urban-based activists were young, and age has emerged as an important issue in debates about customary law. Likhapha Mbatha, head of the Gender Research Project at the Centre for Applied Legal Studies (CALs), and presenter of the CALs submission to Parliament on the CLRB, points out that 'older people, rightly or not, perceived young activists as disrespectful. They didn't think young people had the right to talk to them in an angry way.'<sup>8</sup> This view was corroborated by other participants in the process, who pointed out that in pursuing changes in customary practices, strategies have to take into account issues of dress, tone and discourse very carefully.

Finally, what about the alliance with women inside Parliament? ANC women MPs did not appear to recognise the significance of the Bill until relatively late in the process. No objections were raised to the Bill in Cabinet and, of course, it was sponsored by a woman Minister. However, when approached by the CGE and women's rights NGOs, the MPs did signal their concerns about the bill. Naledi Pandor, chairperson of the National Council of Provinces, worked with women activists to facilitate debate about the Bill. The JMC made a submission to the Portfolio Committee on Land and Agricultural Affairs, laying

out their objections to the Bill – a rare occurrence of one portfolio committee opposing another. The ANC Women’s Caucus also voiced their objection to the Bill. However, when it came to voting in Parliament, there were no official abstentions among ANC women MPs. The Bill passed unanimously through the Portfolio Committee, Parliament and Cabinet. Several explanations have been offered for this degree of public support, despite the private reservations of ANC women MPs. The first is that there was little strategising in relation to the Bill early on in the process. The ANC Women’s Caucus, which had been so effective in getting the controversial Termination of Pregnancy Act passed, did not take up the issue of rural women’s rights in the CLRB. This might also have been a consequence of the poor organisation of women outside Parliament. Secondly, some have argued that women MPs had instructions ‘from above’ not to oppose the bill. The finalisation of the Bill and its appearance before the National Assembly occurred in while party electoral lists were being drawn up, and some activists have suggested that women MPs feared that they might be left off or pushed low down on the lists. One ANC MP argued that ‘it didn’t appear to be an opportune time to take on the party.’ Ironically, some of the very factors that had assisted women activists with regard to the Termination of Pregnancy Act – the role of senior members of the Cabinet and the portfolio committees and the ‘party line’ of the ANC – now appeared to have worked against them. This has led one prominent feminist activist to question ‘whether there is a strong anchor for gender activism in Parliament any more. We have lots of women in Parliament but I wonder how strongly they support women’s interests when push comes to shove. Especially at election time the party is what matters.’

Women’s organisations are currently debating whether to take the government to the Constitutional Court to challenge the legitimacy of the legislation. Legal opinions taken by the South African Human Rights Commission and the CGE both argue that the legislation violates the constitutional right to gender equality. Legal struggle is the only remaining avenue for those opposing the Bill.

### ***Conclusion***

The model of a virtuous circle of representation offers a helpful way to conceptualise the relationship between activism around gender equality at differ-

ent sites in the state and civil society. However, South African experiences suggest that representation is most effective when there are strong forms of political participation and a clear vision of what kinds of gender equality are desirable.

If the gender laws in the first Parliament demonstrate the importance of the support of a strong political party for women's interests, the CLRБ shows the cost that attaches to that factor. In this case, the party was subjected to conflicting pressures from a constituency hostile to women's interests, and moreover, it was a constituency that posed a perceived electoral threat. The women's vote, on the other hand, was relatively poorly mobilised, and in any case the party could rest on its track record of being the key promoter of gender equality. While women MPs might see themselves as organically linked to women's organisations in civil society, they placed considerable emphasis on intra-party debates and were aware of their need to survive within the party. The harsh lesson for women activists was that women MPs ultimately represent the party and are accountable to the party rather than directly to an electoral constituency.

The case of the CLRБ highlights the importance of developing strong women's organisations in civil society. Without the pressure from outside, and without a strong articulation of the interests of different constituencies of women, the virtuous circle model is reduced to its thinnest form – that is, increased representation of women as a group without any concurrent representation of the policy interests of disadvantaged women.

#### Notes

- 1 I would like to thank Godfrey Chesang for his meticulous research assistance. This paper has also benefited from discussions with Catherine Albertyn, Likhapha Mbatha, Sheila Meintjes and Beth Goldblatt. The section of the chapter on the CLRБ also draws on interviews with a number of women activists and parliamentarians who do not wish to be quoted.
- 2 From the website of the Gender Advocacy Programme ([www.gender.co.za/campaigns.htm](http://www.gender.co.za/campaigns.htm)).
- 3 Elsewhere Catherine Albertyn and I have argued that even this conceptualisation of freedom is limited, as it fails to address the social and cultural dimensions of inequality (see Albertyn & Hassim 2003).

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- 4 Orloff (1993:319) takes this argument much further in suggesting that social policies should aim at decommodification of gender relations by enabling women to form and maintain autonomous households. I am hesitant to apply this notion to women in the South African context, given the particular cultural attachments and support systems that women value within family and communities. It could also be argued that the high number of women-headed households in South Africa suggests that women are indeed free to form autonomous households, but this has patently not empowered women to become full and equal citizens.
- 5 Govender was the Project Manager of the Women's National Coalition and a leading union and women's organiser.
- 6 Commissioner Sheila Meintjes and Catherine Albertyn, personal communication.
- 7 The Landless People's Movement warned that it would encourage voters to boycott the 1994 elections if land redistribution processes were not speeded up.
- 8 Likhapa Mbatha, personal communication.

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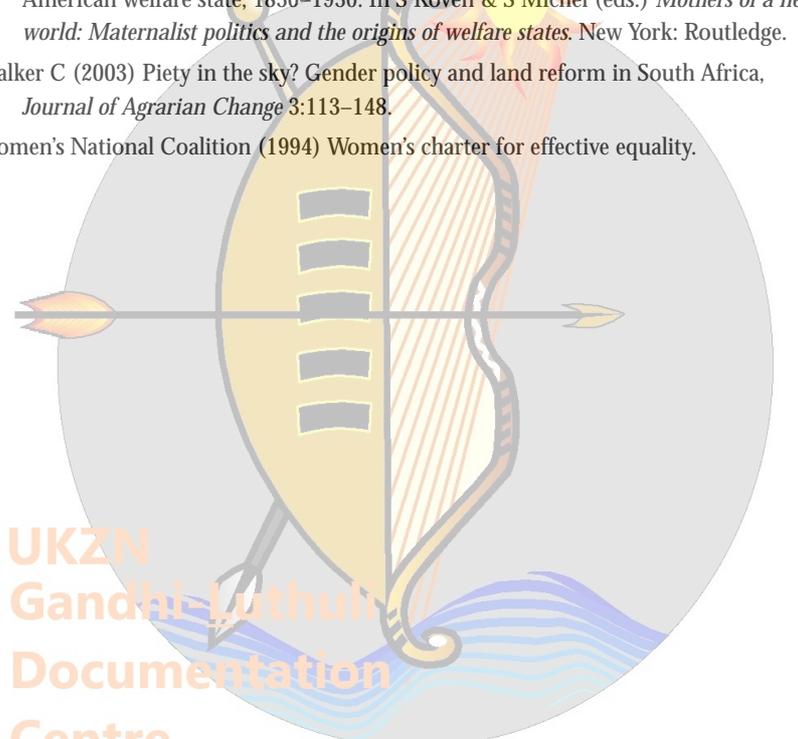
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