

JERUSALEM LETTER

Jerusalem Center for Public Affairs

JL:120 1 Iyar 5751 / 15 April 1991

DAWN OF A NEW SOUTH AFRICA

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Planning a New Constitution / Redefining South Africa's Regions / The End of Apartheid / Assessing the Current Political Scene: The Afrikaners / The Blacks / The Liberals / The Jews / Reconciled to a New South Africa

[Editor's Note: The Jerusalem Center not only deals with problems of Israel and the Jewish people, but also with problems of federalism. One of our very first commissions was from the South African government in 1976 to visit that country and recommend possible federal solutions to their problem. A variant of our report, Peace and Justice in South Africa are Still Possible, was published by the Jerusalem Center in 1986. At the time what we suggested was something that the South African government was not ready to consider. It was too radical for what was then a conservative government. Today it is too limited to be acceptable by the black opposition.

We returned to South Africa in 1982 as part of a delegation from the International Association of Centers for Federal Studies to work with the constitution commission then chaired by Dennis Worrall, subsequently South Afri-

can Ambassador to Australia and the United States, today a member of the South African Parliament. That commission came up with a variant of the idea they now have in place, of a three-house parliament for whites, coloreds, and Asians. We told them at the time that it would not work and we proposed a federal solution that would also include the blacks. They responded that such a solution could not be achieved under the current government. We were right and they were right.]

Planning a New Constitution

Today South Africa is in the process of reconsidering its entire system of government and we are witnessing dramatic changes. In February 1991, I returned to South Africa at the invitation of the Center for Constitution Analysis, a division of the Human Sciences Research Council which is the South

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African equivalent of America's National Science Foundation, to help them begin work on a new constitutional process that hopefully will be successful. Because it was my seventh trip to South Africa I did not feel a stranger to its people or its problems.

The specific setting was a series of workshops held in Durban, Capetown, Bloemfontein, and Pretoria, the capitals of the four provinces, to begin to break the ice among those who are going to be involved in the writing of a new South African constitution over the next year or two. The invitees, about 35 in each meeting, were chosen by the key bodies themselves. In fact, they sent their top leadership, which was a sign of how important the whole process is in the eyes of South Africans.

The only people who were not there were at the very highest political echelon, but there were members of the President's Council, the official constitutional advisory body to President De Klerk, as well as the four leading members of the ANC constitution committee. Also present were the chief administrators and executive committees of each of the provinces. Provincial administrators are considered members of the South African cabinet. While their jobs are technically administrative, they are actually political, so in a sense they were representing the government at the political level. The chief ministers and cabinet members from several of the black homelands also participated. The black groups represented included both Nelson Mandela's African National Congress (ANC), and Zulu Chief Gatsha Buthelezi's Inkatha movement, as well as the radical Pan-African Congress (PAC).

Within the ANC and PAC there is strong pro-Palestinian sentiment, some of which is also anti-Israel -- there is a difference. One of the leading constitutional figures in the ANC is Dahar Omar, a Muslim, who is also Nelson Mandela's legal counsel. The week before I arrived he publicly burned the Israeli flag and endorsed the whole Saddam Hussein line.

There is a strong Muslim movement in South Africa and it is getting stronger. Because these Muslims are dark and are considered non-white, they have obtained positions in the black movements clearly beyond their numbers.

The workshops were the first set of meetings prior to the constitutional convention and provided a chance for people to get to know each other, to begin to feel each other out, to see each other as other than stereotypes and to begin to talk to each other. In this respect the workshops were extremely successful. People all behaved in a very South African way, very mannerly, very cordial, but at the same time not stiff. The only people who may not have expressed themselves freely were some of the senior white politicians, the administrators of the provinces, for example, who were careful in what they said. But I sensed that these were people who were trying to reach accommodation with each other. During the coffee breaks they did not stick to their own groups but talked to each other across group lines.

At the Capetown meeting the chief ANC representative was a Professor Ajmal, an Asian who had just come back to South Africa the week before after 30 years of exile. He had become a professor of constitutional law at the University of Dublin and was very impressive in his presentation. I noticed how the whites sympathized with him when he spoke about what it meant to be away from South Africa for 30 years.

The chief ANC representative at Bloemfontein was Albie Sachs, a Jew, who had just returned from 25 years in exile in London. He is what one would typically expect from a Jewish radical identifying with an oppressed group. He had lost an arm in a bomb explosion, a South African effort to assassinate him in Mozambique.

The ANC representatives were an interesting assortment. They had Omar, a Muslim; Ajmal, who is of Hindu background; and Sachs, a Jew. Only in Pretoria did the ANC have an all-black group led by the chairman of their constitution

commission, a man named Zola, who was also trained in constitutional law, but who was certainly more militant than the others in his manner.

Some of the regional differences in South Africa were reflected in the meetings. The Capetown group was sophisticated. At Bloemfontein, the capital of the Orange Free State, the people -- blacks, whites, and Asians alike -- were more typical of a rural society with a marked lack of sophistication, reminding me of meetings I used to attend in medium-sized cities in the American Midwest. In Pretoria they were highly political, as one would expect in the working capitol of the country.

Redefining South Africa's Regions

The workshops were devoted to the question of regionalism, which is their code word for federalism. Federalism is a bad word in South Africa. All the years when they might have talked about federalism the Afrikaner nationalists did not want to use the word. Now the ANC does not want to use the word because it fears that federalism is a cover for providing the whites with a territory in South Africa that could possibly secede. The discussion focused around the degree to which South Africa must be a unitary state, as the ANC insists, in contrast with the degree to which serious original powers would be transferred to the regions, and the extent to which the regions would simply be instruments of decentralization.

The whites for the most part were interested in having substantial powers transferred to the regions, though there was a difference between the professorial whites who mostly were advocates of federalism, and the public officials who were of the same centralizing mindset as most administrators.

The ANC presented its position as advocating a unitary state, but in discussions it turned out that the two groups were not that far apart. The ANC feels it has the whites on the run so it sees no reason to give anything away. But what surprised

me was that the ANC was as committed to the notion of having regions as the others. They do not want the current division into four white-dominated provinces plus the black homelands to continue, but all are more or less agreed that there should be 9 or 10 regions embracing or dividing both sets of subnational units. Thus, for example, one would be the Orange Free State, heartland of the Afrikaners but with a black majority. Another would be KwaZulu-Natal, while Cape Province and Transvaal would be divided into several regions each.

A regional scheme was introduced by the previous government as a way to overcome the division of the homelands without abolishing the homelands. They took the whole country and divided it into 9 so-called economic regions, a plan which apparently will be the basis for the forthcoming regional scheme. It ignores racial criteria entirely, which is why these regions are acceptable to the ANC. They want to prevent the creation of a separate white homeland.

South Africa plans to adopt the Israeli system of proportional representation, list-system voting in each region. The expectation is that this way they do not have to formally reserve so many seats for whites or Asians or Zulus or whatever, but each group will field a party representing the majority interests of that group and will receive x-number of seats under a proportional representation system as the various parties and camps do in Israel. This will mean different configurations in different regions.

Chief Buthelezi had refused to let KwaZulu become independent on the grounds that once the British had conquered the Zulus in 1879, they became South Africans and were entitled to their share of the whole South African economy. A few years ago Buthelezi tried to work out a constitutional formula in KwaNatal (KwaZulu and Natal) known as the Indaba, which developed a system of voting lists to accommodate each of the racial groups as well as the development of a non-racial

voting list. Perhaps KwaNatal will indeed decide to choose this type of system for itself.

When the question of language came up in the constitutional discussions, the ANC proposed not having one official language but listing about ten languages, including Afrikaans, English, and various tribal languages, and guaranteeing the right to speak and learn any of those languages. A shorter list of the languages of record would probably include English, Afrikaans, Zulu and Xhosa.

One interesting characteristic of the new South Africa is the common realization that Afrikaans has become the common language of the country for blacks, coloreds, and even Asians. The coloreds always spoke Afrikaans as their primary language, but the blacks also speak Afrikaans, making it the majority language in the country by far. The knowledge of their successful preservation of an Afrikaans culture will carry the Afrikaners far towards integrating into a non-white environment.

There is a general agreement that there should be a written constitution with a bill of rights to protect all sides. The ANC prepared a draft bill of rights which sounds beautiful until the last article which says, more or less, that, for reasons of state, any of these rights may be suspended. But people are talking seriously about a bill of rights with a constitutional court that will have the power of judicial review.

The End of Apartheid

All of the Afrikaners I met are talking about a "new South Africa" as if apartheid is not even a consideration anymore. Its last official remnants were being dismantled. There was no question about accepting one person, one vote.

One reflection of the striking changes that have occurred involves Helen Sussman, who in 1974 was still the only member of Parliament to speak out against apartheid. Today she is the grand old lady of South African politics and while I was there they

were hanging her picture in Parliament at an official ceremony. Now she is looked upon as the one who saw the future and defended the whites' honor in those years when nobody else would do so.

On earlier visits, one measure of progress in South Africa was the degree of racial integration seen at hotels. It is now no longer an appropriate measure. In 1974 I stayed at the President Hotel in Johannesburg the week after Zulu Chief Minister Gatsha Buthelezi had become the first black ever to be allowed in a whites-only hotel. During my next visit in 1976, blacks could get permission to stay in four and five-star hotels. By 1978, blacks could stay in four and five-star hotels without asking permission in advance but could go to restaurants and three-star hotels only with permission in advance. Today nobody even remembers that there ever was racial separation in hotels. In fact, while I was there, South Africa abolished registration by race on birth certificates. An additional indicator of change is the growing number of interracial marriages (the very embodiment of the hard-line Afrikaners' greatest concern), a sign of the potentiality for real links across the color line.

Assessing the Current Political Scene: The Afrikaners

The government, which is led by De Klerk and the Afrikaner National Party, is committed to real change. De Klerk is moving the country toward a fundamentally non-racial government in its form and in its constitutional requirements. The one thing he is fighting about is that the upcoming constitutional convention should be based upon representation from the existing parties and not on elected delegates because elected delegates would mean that the blacks would win everything at the outset and there would be hardly anything left to discuss. The ANC, of course, is insisting on an elected convention.

The white Conservative Party, composed of Afrikaners who have dissented from De Klerk's position, are threatening

but their power is limited. There have not been widespread desertions from the National Party. The majority of Afrikaners seem to be worried but reconciled to trying to find a way to live in Africa. The Conservative Party may increase in strength from 15 to 25 percent among white voters but not more than that. The party has now adopted as its core the idea of a white homeland in South Africa, which the ANC rejects, but even they have recognized the handwriting on the wall with regard to the whites maintaining control over the whole country.

The Nazis in South Africa are a fringe group. They are more visible on television screens outside of South Africa than within the country. All of the Africans that I talked to seemed to think that this was an unimportant group. Considering that the Conservative Party is getting limited support, it is clear that the Nazis have to work within even narrower limits.

The Blacks

The ANC, clearly militant, may be moderating. There seem to be two kinds of divisions in the ANC. The first is a split between the national leadership and the civic associations -- the local leadership. The civic associations were organized locally to carry on the struggle over the last decade and are now pretty much self-contained and self-sustaining. They do not depend on the national leadership (the reverse is true) and they are very militant. Not only have they been involved in fighting, but they include a whole generation of young people who dropped out of school early to fight for the cause who are uneducated and are now angry that they are uneducated and who refuse to let the next generation be educated. They stop young people from going to school and this has become a serious problem. The whites are challenging the ANC to do something about this, but whether they can or not is an open question.

The other division in the ANC national leadership is between the militants and the moderates. This is reflected in the Man-

dela family where Winnie is a militant and Nelson is a moderate in the sense that he is willing to try to achieve his goals through negotiations, which involves making some concessions.

The Zulus will probably remain very much opposed to the ANC even if they enter into a tactical alliance with them. First of all, there is the long-standing political rivalry between Mandela and Buthelezi. Second, there is a deep dislike by Zulus of the other tribes. The ANC leadership is heavily dominated by Xhosas, whereas the Zulus have their own Inkatha movement. The Zulus are the largest single ethnic group in South Africa, numbering about 6 million. Whites are next with 4 1/2 million. Then come the Xhosa who are about the same size. Then come the various others. Nationally, it is expected that the ANC is likely to win 55-60 percent of the vote unless it does something foolish. At the same time, an alliance between the Afrikaners and the Zulus seems quite possible, a coalition that would make possible a competitive second party that could possibly win an election against the ANC.

Buthelezi has won a real victory in the last few months. He has forced all the players to include him and his powerful movement in the game. The rest of the world, following the word of the ANC, had treated Buthelezi as an Uncle Tom who was to be considered out of the game because he was portrayed as kowtowing to the whites. But had the whites dealt with Buthelezi properly in the earlier years they could have swung things in a different direction. Of course they are going to pay for that mistake now.

The real violence in South Africa today is between black and black, between the civic associations of the ANC and the local Inkatha groups -- the Zulus. Whether there can be a proper constitutional convention will depend a great deal upon whether or not that violence can be arrested.

The Pan-African Congress is picking up some strength from among militant ANC

types who are unhappy with any apparent moderation of the ANC and the ANC's willingness to pursue a course of action that involves negotiation rather than violence. The ANC is not as socialist or as unitary as they once were, so some of the people who are still of that mind, who really believe in a confiscatory, militant policy, are probably joining the PAC. But overall they are a little stronger than the Nazis on the white side.

The UDC, Desmond Tutu's group, is out of the picture. In a sense they were a front group for the ANC and now that the ANC is back the UDC is not needed.

The Liberals

The Democratic Party, representing the liberal English-speaking whites as distinct from the Afrikaner-speaking whites, is largely irrelevant today. De Klerk has stolen their program. They will keep electing a few people to Parliament because there are people who do not want to vote for the Nationalists, but they will more or less go along with whatever De Klerk does.

The Jews

The Jews, as usual, the most liberal of the white groups over the years, are, as usual, caught in the middle. If there is a settlement, it will involve considerable affirmative action, and as the Afrikaners fight for their share, there is going to be no room at all for the Jews. At least as important is the fact that these other groups honestly love southern Africa -- the land, the country -- they feel a tie to it. They think of themselves as Africans. Not the Jews. No matter how much they love South Africa and enjoy its luxuries, by and large they do not feel the same kind of ties to the place.

Reconciled to a New South Africa

I had gone to South Africa expecting the whites to be quite unhappy with their prospects for the future, but, to my amazement, this was not the case. A lot of South Africans are clearly angry about the future, a lot more are frightened, but one thing that gives me hope is that overall they are not ideological. They do not have strong commitments to positions. One could see people moderating even during the discussions. They would hear something that they had not thought about before and would begin to consider it seriously, even the ANC people. That, plus their common love of southern Africa and their common feeling of being Africans, may indeed carry them far enough to pass through this very difficult period.

The whites may simply be deluding themselves or may be trying to make the best of the situation, or they may believe that they can hold on to sufficient economic power to protect their political power. One of the elements in their calculation is Zimbabwe, formerly Rhodesia, where the whites who stayed there seem to be doing just fine. But they are such a small proportion of the population that I do not think it is a fair analogy. Yet whatever the reasons, except for the Jews who are the most pessimistic, most white South Africans seem to have talked themselves into accepting the eventual transfer of power in the not-too-distant future to the black majority.

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