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CODESA AND AFRIKANER SELF-DETERMINATION

EDITED VERSION OF A REPORT SUBMITTED
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aspirations for restoring their statehood, and that they harbour misconceptions which could have been cleared up long ago. Problems which have already been thrashed out are still being advanced as insurmountable obstacles.

Homeland Afrikaners are also urged to extend their communications to other ethnic minorities and to those forces in the outside world who take an interest in, and are genuinely concerned about constitutional reform in South Africa. Lack of information seems to be the most fundamental obstacle which the homeland movement will have to deal with in the immediate future. Some of the perceptions which exist at home and abroad will have to be placed in proper perspective.

The drive towards self-determination is characteristic of nations and minorities everywhere. Slogans and designs which have been discarded elsewhere are still being advocated in South Africa. The enforcement of a unitary state in a deeply divided society, such as South Africa, will not eliminate the Afrikaner's need for statehood, nor will it satisfy the aspirations of other ethnic minorities. In academic circles it is widely agreed that a unitary state will not work.

This report contains a concise exposition of the role of self-determination in the form of a sovereign state and of secession in the Afrikaners' plans for the future of South Africa. The major issues dealt with include the land question, international conventions and matters affecting viability. The final chapter deals with obstacles in the way of negotiation within the context of Codesa, and possible solutions for overcoming them.

opposing principles that can never be reconciled in the same state. Under the old way of thinking the struggle would have to continue, but under the new dispensation it would be unnecessary and dangerous to leave the matter unresolved. Both principles can be accommodated by allowing Afrikaners, and others who may wish to follow suit, to have their own state. This will make it possible for parties who bitterly oppose each other to take part in constructive negotiation and to work together on fundamental problems.

The ANC is basing its policies on slogans and charters forty to fifty years old. Political systems which depended on them are as outdated today as are the economic systems that depended on them. "Multi-racial democracy", for example, always was and is a contradiction in terms, a self-destructive concept. Blood has been and is being shed throughout the world by minorities who wish to escape from the consequences of such a system.* It must be expected that world leaders and investors will look forward to a dispensation which accommodates ethnic diversity more efficiently than "multi-racial democracy" in a unitary state which is being contemplated at present.

(2) The management of negotiation

A perception exists that the government and the ANC are running Codesa; that they have enough in common to reach agreement on everything and enough power to put their plans into effect; that the presence of smaller parties and the parties not represented at Codesa is only needed so that they can be convinced that what is good for the majority will also be good for them.

This perception is supported by statements made by the leader of the Democratic Party to the effect that as Codesa represents the majority of the population it can move ahead without conservative Afrikaners and others not represented; also by the reported view of the leader of the ANC that he wants homeland Afrikaners at the negotiations so that he can make "inroads on their thinking". (Cape Times, 08 01 92) This is the method and the language of revolution; statements such as the above undermine confidence in Codesa and drive away prospective participants.

(3) The declaration of intent

Codesa made a grave mistake by starting with a declaration of intent which in effect closes its doors for an important section of the population. Parties who bind themselves to an undivided country are not open to discuss secession. Afrikaners' plea for statehood was rejected before they could lay it on the table. At this stage it will be extremely difficult to persuade them that Codesa is sufficiently open to revise its declaration of intent.

Conditions for success

Firstly, in order to meet the needs and conditions referred to at the outset the constitutional design will have to become more flexible than it has appeared to be so far. The fears that

* Ibid., pp. 11-45.

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the view on self-determination as outlined above. Thus, it would appear that foreign recognition must come about before self-determination can come into being: recognition forms the basis on which claims to land, to a country and government, to partition and, under certain circumstances, to unilateral secession may be justified.

The conditions under which a need for self-determination can become a right constitute the crux of the matter. In the Law Commission's view Afrikaners would not be entitled to secede from the RSA because of the conditions governing them. They are a ruling minority at present and are, therefore, not suffering from suppression or discrimination. Under a non-Afrikaner government the right to secession would also be inapplicable unless there is discrimination.

The Commission defines secession as unilateral action in violation of the sovereignty of the mother state, whereas partition calls for negotiated settlement. In the latter case the legal problems relating to secession need not apply. However, Afrikaners would still have to substantiate the legitimacy and validity of their claims to partition at the negotiating table. According to the Law Commission there is little hope that juridically unfounded claims would be acceded to.^o

The Commission found in effect that representative government which refrains from discrimination on the basis of race, colour or descent will exclude Afrikaner self-determination in the form of sovereign statehood.

Self-determination as a right

In opposition to the Law Commission's view with respect to the legal position of Afrikaners there is the view that self-determination is a basic right to which all nations are entitled and which they may demand unconditionally. The right to self-determination includes the right to secession as a method of achieving self-determination under certain circumstances.

In a survey of self-determination and secession with respect to the position of Afrikaners in which the works of leading authors, such as Stoker, Dinstein, Van Dyke, Cobban and many others were investigated, Prof. A.W.G. Raath^o of the Law Faculty of the University of the Orange Free State, came to the following conclusions:

(1) In principle, every nation has the right to maintain and nurture its identity in terms of international law. Nations are regarded as equal in their legal standing with respect to fundamental rights.

(2) The right to self-determination requires the competency to establish a state, through secession or otherwise. It is a right which belongs to all nations. A nation may elect to exercise its right in some other way, but it is recognised in international law that self-determination is realized more effectively when there is a sovereign state.

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^o Raath, A.W.G. 1990. *Selfbeskikking en Secessie*. Pretoria, Afrikanervryheidstigting.

the emergence of the new state in accordance with international law, while at the same time promoting the viability of the new South Africa.^o

Economic viability

There should be no need for exclusion or for economic sanctions. A less deeply divided and more peaceful South Africa could expect more investment than before. Multi-ethnic states are, as has been said earlier, low down on the list of foreign investment. Right from the start an Afrikaner state could be involved in economic organization and co-operation in Southern Africa.

The needs of Africa and of the big powers call for an economic community of Southern African states which could facilitate the flow of resources and services across borders and would contribute to the stability and viability of all the states concerned. An Afrikaner state would be able to participate in such an organization without feeling threatened.^{oo}

Today the big powers tend to grant independence to minorities who wish to govern themselves rather than to resort to repressive policies. They make extensive provision for the economic viability of the new states and at the same time assist them to meet other requirements for international recognition. Great Britain, for example, has relinquished her colonial empire by granting independence to large and small nations alike; has undertaken to give substantial aid to the new nations for their administration and development and has given and encouraged international recognition.

The Pacific states referred to above, have ended US trusteeship peacefully, through negotiation. Their ties with the USA will remain close in terms of a compact of free association. The compact provides inter alia for development aid; for trust funds for education and social pensions; for services to be provided by the USA, such as international air travel and postal services, currency, weather reports, disaster relief and public health facilities; and for defence agreements.

^o Ibid., pp. 53, 54, 62, 70-81.

^{oo} Ibid., pp. 82-92, 101-102.

CHAPTER 2 AFRIKANERS AND SECESSION

Definition

Secession means delimitation through abscission or excision of a part of the territory of an existing state by the inhabitants of the demarcated portion with a view to forming a new state or to incorporation into another state.

The concept applies principally to unilateral action to enforce self-determination. However, in several instances abscission or excision has taken the form of negotiated partition: it has taken place with the consent of the mother state, for example, in the case of colonies which have been excised from colonial empires since the late fifties.

The right to secession

Some authorities regard secession as the most important element in the right to self-determination. Under certain conditions it may be an appropriate method, or the only method, of giving effect to the right to self-determination.

The right to secede is not an absolute right. It should be exercised in accordance with certain conditions for it to be recognised in terms of international law. In the survey of self-determination and secession referred to above^o the following conclusions were reached:

(1) The right to secede in order to give expression to the right of self-determination is recognised in international law. Its application has to comply with the following conditions:

(a) The nation which wishes to secede must have a distinct personality, or identity. It must in fact be a "self", and it must be able to demonstrate a genuine and unambiguous desire to secede and form a new state, or annex itself to an existing one.

(b) The claimant must be capable of independent existence, or be willing to be incorporated in an existing, viable state. The new state's government should, inter alia, have effective control of the country; it should be able to maintain law and order and to provide essential services.

(c) The population, land and other resources of the state should be sufficient to ensure political and economic viability.

(d) There should be good prospects for the continued existence of the state, for stability and the promotion of international peace.

(2) The conditions listed above are not absolute: all new states cannot comply with all of

Jooste, C.J. 1992. Grondwetlike Beskerming vir Suid-Afrika se Minderhede. Pretoria, Afrikanervryheidstigting. See especially pp. 11-45.)

CHAPTER 4 RECOGNITION AND VIABILITY

Introduction

Many Afrikaners will not see an Afrikaner state as their homeland, but this attitude may well change once the state has been established. Initially, influential American Jews were profoundly opposed to the idea of a Jewish state in Palestine, but they gradually became the force behind the development, and up to this present day provide Israel with substantial monetary and other support.

Only those Afrikaners who desire a homeland will accept citizenship and settle there. This is by no means unusual. Only a third of the Basuto nation live in Lesotho - the others live elsewhere, chiefly in South Africa and Transkei. The same may be said of the Tswana and Swazi peoples, of Jews and many other nations. The important thing is that a nation must have a state of its own in order for its people to be able to travel and live and participate elsewhere in the world without discrimination.^o

Therefore, the size of the homeland is of less importance than the fact that it exists. This has obvious advantages for neighbouring states. For example, the fact that Lesotho, however small, exists means that Basuto living in South Africa have no moral grounds for starting a struggle for political supremacy or secession, and that no special provision is needed for them in order to maintain their identity. The homeland gives a sense of existential security, protection against discrimination and opportunities for cultural expression to scattered minorities.

Right now the big powers, the United Nations and other international organizations tend to allow those minorities who feel strongly about self-determination to secede and to govern themselves rather than to suppress constant revolt. Extensive arrangements are made to ensure economic viability so that even very small nations can live independently and with dignity.^{oo}

Prescription

Most states have multi-ethnic populations. The extent and nature of the problems the United Nations and the big powers have to resolve gives an idea of the determining influence of language, religious faith and other critical interests on political issues. Everywhere constitutional design has to take account of the conflicting critical interests of minorities. Changes in these interests require a constant adaptation to the constitutional dispensation.

Self-determination in the form of a sovereign state is not a general prescription for the

^o Jooste, C.J. 1991. 'n Volkstaat vir Boere-Afrikaners. Pretoria, Afrikanervryheidstigting. Pp. 139-140.

^{oo} Jooste, 1992, op. cit., pp. 76, 101-102, 108.

CHAPTER 3 THE LAND OF AN AFRIKANER STATE

No to a unitary state

Proof of the Afrikaners' right to self-determination seems superfluous: they have shown a desire for statehood since 1795; practised self-determination since 1837 and have obtained international recognition. However, the application of their rights has been questioned many times. The pertinent question is how self-determination can be applied under the circumstances which exist today.

The government of South Africa, foreign governments, and most of the parties in Codesa warn against experimentation with outdated economic systems. This concern should also apply to the political field. Political instability will frighten investment away and disrupt the economy. A deeply divided society, such as South Africa, is low on the priority list for international investment as it is in constant danger of conflict, violence, political upheaval and economic setbacks.

Examples of the failure of experiments with unitarian forms of government in deeply divided societies can be found everywhere, in all parts of the world, in history and in modern times; it can be seen today in the bloody battles and wars in which nations are engaged on all the continents for their right of self-determination.^o There is no need for further experimentation in this regard in South Africa.

* * *
The Afrikaner homeland movement has no wish to participate in Codesa's unitary state endeavours. A slogan such as multi-racial democracy is meaningless; the concept is self-contradictory and has not worked anywhere in the world. A leading authority on consociational democracy such as Arend Lijphart^o was most specific when he said:

"In the extreme cases of plural societies, such as South Africa, the outlook for democracy of any kind is poor."

Practically all Lijphart's conditions for the success of a plural state are lacking in the case of South Africa, namely that minorities must be more or less equal in size; be isolated in their political, geographical and social organization; be bound together by common loyalties; have common enemies; be more or less of the same economic and educational level and have some experience of political accommodation.

In a recent survey^{oo} of partition in South Africa it was stated:

^o Lijphart, A. 1977. *Democracy in Plural Societies*. New Haven, Conn., Yale University Press, p. 236. See also Lijphart, A., *Majority rule versus democracy in deeply divided societies*, *Politikon*, 4:2 (177), p. 124.

^{oo} Jooste, C.J. 1991. *Partition as a constitutional option*. Van Vuuren, D.J. and others, *South Africa in the Nineties*, Pretoria, IISRC Publishers, p. 232. See also A.T. Turk, *The future of South Africa*, *Social Forces*, 45:3 (1967), pp. 402-412. Turk came to the conclusion that non-racial democratic government could only work if assimilation were imposed mercilessly from outside, or if federation were to take place and be maintained over many generations so that minorities

Codesa seems to be unconvinced of the Afrikaners' right to self-determination. If possible, this matter should be cleared up by the transitional government and possibly the constituent assembly which is advocated, both of which should get under way in the course of 1992. As the parties and minorities represented in Codesa will almost certainly be represented in the interim government, it may be possible to reach a decision sooner under such a dispensation than under the existing regime.

A great deal may still have to happen before the homeland issue is clarified. Scenario's of revolution may be fulfilled, violence may escalate and governments may fall, but in the end a solution will have to be worked out through peaceful negotiation.

Success can be expected when the South African government accepts the principle of an Afrikaner state and starts implementing it. Problems of undermining the sovereignty of the RSA, of cutting up its territory and resources, thus making it unviable; of the viability of the new state and of meeting the international requirements for recognition will then be dealt with and solutions found in a constructive manner.

It has been said in revolutionary context that a government does not negotiate unless it is forced to do so, but this should no longer be necessary. Even the most powerful states nowadays try to accommodate small minorities in view of their ability to cause disruption. Any South African government will know this and can design its own scenario, on the strength of historical and scientific knowledge available to a greater extent now than in the past. It can act systematically, of its own accord, without having to be pushed or forced, to assist in bringing Afrikaner state aspirations to fruition, on a mutually beneficial basis.

Resettlement

Towards the end of the previous century, when homeland Jews turned their eyes towards Palestine, their numbers there were insignificant and they were heavily outnumbered by Arabs. After having considered several proposals for the location of a homeland, inter alia in Argentine, Russia, Uganda, Egypt and Cyprus, the Zionist Congress in 1903 decided that a Jewish homeland in Palestine, and nowhere else, would be the answer to the Jewish problem. The British government also committed itself with the Balfour-declaration (1917), to the promotion of a Jewish state in Palestine.

Important lessons can be learned by Afrikaners from the Jewish experience in Palestine.^o Once the homeland leaders and the British government had made their decisions Jewish numbers started to grow, from about 55 000 in 1917 to 650 000 in 1948.

The need for clarity on the location of a homeland should not be overlooked by Afrikaners. It should also be noted that the state of Israel was not brought into being by the thirteen to fifteen million Jews in the world at that time, but by the 650 000 (about 5%) of them

^o Jooste, C.J. 1991. 'n Volkstaat vir Boere-Afrikaners: Lesse uit die Joodse Besetting van Palestina. Pretoria, Afrikanervryheidstigting. See especially pp. 9, 12, 15, 16, 19, 20-25, 87, 94, 95, 103, 106.

Ropp (Power sharing versus partition in South Africa, *Australian Outlook*, 35:2 (1981), 158-68.

Homeland Afrikaners will, of course, have to take cognizance of the international implications of their striving towards statehood. The conditions of secession imposed by international law cannot be ignored or underestimated. This chapter and the next, deal mainly with factors which bear upon the international recognition of an Afrikaner state.

Finally, it should be made clear that the government and Codesa will have to re-think their attitude towards the demands of homeland Afrikaners. They are adopting a prescriptive approach which is not in accordance with the concepts and conventions of international law. Prescription will be as unacceptable to Afrikaners as it was to black minorities; it will disrupt constitutional development and economic growth in the same way and to the same extent, as unrealistic and unpractical demands of homeland supporters will do.

The geographical distribution of Afrikaners

The essential elements of a state are land, population and government. What is obviously lacking in the case of the Afrikaner is land.

There is a trend of thought that maintains that the delineation of international boundaries should enclose nations as far as possible. The state should be where the nation lives, or where there is a significant concentration of its members. This leads to the conclusion that geographical features such as rivers and mountains, defensibility and the location of resources may not be the best bases on which to draw boundaries.^o

The Western Cape may be regarded as the cradle of the Afrikaner. Expansion into the interior took place from there and ultimately led to the establishment of republican states in Northern Natal, the Orange Free State and the Transvaal during the latter half of the nineteenth century. In 1910 when the British withdrew from the greater part of their South African empire, Afrikaners gained control of a very large country in which they were increasingly outnumbered by blacks and other whites, predominantly those of British descent.

In the past Afrikaners laid claim to this vast territory as their fatherland, but similar claims were made by other ethnic nations, tribes and minorities. Although General Hertzog and Dr. Verwoerd did their best to resolve the conflicting land claims the matter was never resolved satisfactorily. Blacks have united across ethnic boundaries for the purpose of gaining supremacy in South Africa. They have gained considerable success in this regard and that probably accounts for their adherence to the slogan of a multi-racial democracy at the present time.

It is agreed that the restructuring of power relations is urgent, and that access to land constitutes a critical issue in this process. Reforms that have already taken place

^o Raath, *op. cit.*, 46-47.

have had the effect of equal citizenship and equal access to land regardless of race or ethnic origin. The existing legal position implies that the delineation of an Afrikaner homeland will have to be negotiated to the satisfaction of all the other ethnic nations and minorities.

Black nations occupy a privileged political position: they have land which is indisputably theirs, and they are sufficiently concentrated to be able to opt for statehood should they wish to do so, now or in the future; their international support as well as their numbers and labour power enable them to dictate the course of constitutional development to a considerable degree. Afrikaners on the other hand, have no land which is exclusively Afrikaner land and there is no concentration to be found anywhere where they are not heavily outnumbered by other citizens who can lay equal claim to the same land. Their numbers have started to decline, while those of most other minorities increase.

If a country has to be delineated for Afrikaners now, on the strength of where they live, it would be almost impossible to arrive at meaningful boundaries. This constitutes a critical obstruction towards the realization of Afrikaner self-determination that has to be overcome. It is argued in government circles that self-determination in the form of statehood is ruled out completely by the pattern of population distribution and that some form of minority protection is all that is left for Afrikaners.

The above argument will not hold water in respect of the Zulu's or any of the other black minorities, and Afrikaners can hardly be expected to accept a situation of subservience simply because the land which they own and have acquired lawfully, cannot now be consolidated into a viable homeland.

A good many proposals have been put forward for the delimitation of an Afrikaner country, not one of which seems to be practically feasible. They merely demarcate regions in which Afrikaner settlement is advocated by different homeland organizations. The land areas proposed are unmanageable and unattainable if the numbers of non-Afrikaner inhabitants are taken into account. In actual fact an Afrikaner homeland needs to be quite small.^o

The different organizations base their land claims on objective and subjective criteria. Subjective considerations are those which call for the demarcation of large areas so as to include many Afrikaners; or many conservative Afrikaners; or many Conservative Party constituencies. Large areas are also claimed so that more can be sacrificed when it comes to negotiation. In a sense the delimitation proposals are symptomatic of a struggle among the organizations to strengthen their influence and leadership aspirations in the homeland movement.

Objective criteria which have weighed heavily are those which bear on economic self-sufficiency, defensibility and viability. Efforts are made to reassure Afrikaners about the availability of strategic resources such as water, power, minerals and access to the sea

^o Jooste, 1992, *op. cit.*, pp. 86-88.

and air; composition of the population is taken into account, but seldom in the sense that it is a vitally important factor; the location of historical places and monuments take a central place in several instances and physical boundaries are followed wherever possible, for strategic or other reasons.

The above criteria are likely to undergo re-evaluation as time goes on. The need for a negotiated settlement, for peaceful international relations and especially for economic co-operation calls for reconsideration of demands for land and resources in accordance with the interests of other minorities and with conditions for secession laid down by international law. The interrelatedness of economies makes it imperative that strategic resources should move freely across international boundaries.⁹

In the long run the guiding principles for delimitation will be whether the land and other demands are practicable and negotiable; whether Afrikaners will settle there in sufficient numbers and do their own work and whether they are prepared to build their state on a firm juridical foundation.

Secession cannot be carried into effect before and unless a significant concentration of Afrikaners has been brought about in a part of South Africa on which agreement has been reached. The size of the non-Afrikaner population included by any such delimitation will be a matter of vital importance.

The population and citizenship of an Afrikaner state

After delimitation, the normal inhabitants of the demarcated territory who have South African citizenship, constitute the population of the proposed state. They will be entitled to citizenship without ethnic distinction. They have to secede and go about bringing their state into being and administer it. It will therefore be futile to delineate boundaries and proceed immediately with secession while Afrikaners constitute a minority of the population.

The South African government holds the key in this regard. It should initiate negotiations with Afrikaners and other minorities who make up the population at present, with a view to reaching agreement on where an Afrikaner state is to be located. Uncertainty would then come to an end: Afrikaners will resettle themselves there in considerable numbers, while those inhabitants who do not wish to stay under an Afrikaner government may also leave of their own free will.

In addition, the South African government could promote this kind of resettlement with aid programmes similar to those carried out when black states were excised from the RSA from 1976 to 1981. Such programmes could be justified on the basis of their contribution to peace and sustained economic development in the sub-continent. Development projects will not only benefit the Afrikaner state, but stimulate development in which all the states of the region could participate and enjoy benefits.

"Complex systems of democracy will also be put to the test by the conflicting critical interests of the various minorities which will be difficult to reconcile, even in a federation. Critical interests are those which the members of minorities consider necessary for the realization of their political aspirations; these are interests which they wish to enlarge instead of sacrifice, for example income, wealth, opportunities, power, rights and self-determination. A constitutional design which claims to be in the interests of minorities must enable them to realize their interests and political ideals more effectively than under any other dispensation (De Crespigny 1980:54-55)."

What homeland Afrikaners want to do is to work with other nations in the region towards stability and economic improvement. It is widely agreed that economic growth will be the answer to the demands for a more equitable distribution of income and wealth than that which exists at present. Government intervention by way of nationalization, expropriation or other forms of prescription are widely rejected inside and outside South Africa. Many Afrikaners believe they can contribute more towards regional growth by having their own state than if they were to remain under a system which is forced upon them, which they don't want, and which they know from experience cannot work in the long run.

Homeland Afrikaners feel strongly about their right to self-determination, to maintain their identity and secede from the RSA. They want to protect what De Crespigny⁹ calls their critical interests, their standards of education and income and philosophy of life. They are accustomed to these standards and ways of living; they depend on them and expect to retain them. Blacks, on the other hand, expect political power, to which they are entitled; they are also entitled to land and opportunities of which they believe they have been deprived and they are entitled to recognition of their values and norms. In a unitary state, if Afrikaners get much of what they need, blacks will gain little. Critical interests, says De Crespigny, are for the most part irreconcilable and will make power-sharing extremely difficult.

could mix freely and discrimination disappear. Partition into states which could eventually lead to federation seems to him to be the most likely political destination for South Africa's minorities. Similar views have been expressed before by leading liberal authorities such as R.F.A. Hoernlé (South African Native Policy and the Liberal Spirit, 1945, Johannesburg: WUP); E.A. Tiryakian (Sociological realism: Partition for South Africa, Social Forces, 46:2 (1967), 208-221) and others, and reiterated during the seventies and eighties by J. Blenck and K. Von der Ropp (Republic of South Africa: Is partition a solution?, The South African Journal of African Affairs, 7:1 (1977), 21-32); L. Schlemmer (Social implications of constitutional alternatives in South Africa, J.A. Benyon, Constitutional Change in South Africa (1978), Pietermaritzburg: NUP, 258-276.1978); K.L. Adelman (African Realities (1980), New York: Crane Russak; and K. Von der

⁹ De Crespigny, A.R.C. 1980. South Africa: the case for multiple partition. Journal of Racial Affairs, 31:2, 50-57.

note 1992, op. cit., pp. 83-84.

who had settled in Palestine. Afrikaners who want a homeland and settle in it will establish an Afrikaner state.

In choosing the location of a homeland, Afrikaners will have to come to terms with the fact that their distribution over the whole of South Africa is unfavourable from the point of view of self-determination. The vast majority of those who wish to live in their own country, will have to uproot themselves and resettle there. They should also accept the fact that non-Afrikaners cannot be forced to move elsewhere. Resettlement of whatever kind will have to be a voluntary decision by the family concerned.

It can be expected that Afrikaners will move to their own country in sufficient numbers to form a viable state, but that voluntary emigration of non-Afrikaners will be small. Inevitably, a country will have to be delineated in such a way that it includes the smallest possible number of non-Afrikaners. Delimitations which include prospective foreign populations almost equal to or exceeding the entire Afrikaner population are unrealistic. Ideas of housing foreign workers outside the country so that they may retain their South African citizenship, or of negotiating their ultimate voting rights away, will also be unattainable.

The immigration of Afrikaners and emigration of non-Afrikaners should eventually lead to a population composition similar to that of other national states such as Lesotho, Germany, Iceland, Ireland and others. Germany, for example, belongs to the Germans, but a minority of non-Germans live in the country more or less permanently. The non-citizens in Germany are not seeking to overthrow the government or to secede; they suffer no official discrimination and may in time become entitled to citizenship.^o

Self-labour

Ben-Gurion once said that a nation which cannot do its own work has no future. The pattern throughout the world is that citizens do the bulk of the work in their country. This has never been the pattern among Afrikaners, and that explains why their right to self-determination has so often been in dispute.

An Afrikaner state will not be able to use foreign labour to the same extent as in the past. Foreign workers who are allowed to enter and stay in the country will become entitled to citizenship and this will rule out any idea of continuing the practice of employing two to ten or more black workers per Afrikaner worker. Without self-labour an Afrikaner state will be still-born.

them in every respect. Indisputable control of the country so that secession cannot be undone, can lead to recognition by outside states even if the mother country refuses recognition. (Spanish colonies, Croatia, Baltic states) On the other hand, recognition by the mother state can lead to general recognition in spite of instability, violence or doubtful viability. In cases where the right to self-determination was at stake, and where the possibility of the disturbance of international peace was real, recognition has been granted under chaotic circumstances. (Bangladesh, Rwanda, Burundi, Angola, Algeria, Guinea-Bissau, Israel, Indonesia and many others)

(3) In theory, recognition is not essential for the establishment and continued existence of a state. Sovereignty can come about without devolution or transfer thereof from an existing state. It has happened in some instances that a mother state has recognised a new state which seceded from her long after outside states have done so, and after extensive international relations have been entered into by the new state. (USA, Spanish colonies, Baltic states)

(4) The distinct character, or identity of the Afrikaner is self-evident. Other conditions for secession can also be met.

^o Hooste, 1992, op. cit., pp. 54, 69, 72-76, 86-89.

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constitutional destiny of every minority in South Africa. Minority problems vary and do not necessarily require identical solutions. For many Afrikaners a state is vitally important, but it stands to reason that in the light of their history other minorities may have different perceptions of self-determination and will take other options. Obviously, they cannot enforce their options on Afrikaners.

What is needed is a supple dispensation which will allow for a choice between various political forms and enable minorities to change the form of self-determination that they have chosen, should they so wish.^o The approach followed by the USA in the Pacific region in respect of trust territories placed under its jurisdiction after World War II is worthy of consideration. The various minorities in those territories comprise a population of less than 200 000. After forty years of enlightened US trusteeship they have chosen to exercise their right to self-determination: four of them have formed a federation; two have opted for unitary republics and the remainder have entered into a commonwealth relationship with the USA.

Relationship with the RSA

Should the South African government accept the principle of statehood for the Afrikaner, then there is no moral basis for revolt against the policies it wishes to adopt in the RSA or for violence or unrealistic land and other demands. Relationships will change immediately, making it possible for homeland Afrikaners to co-operate with those who are in favour of other options, and to recommend to the electorate a dispensation that has general support.^{oo}

Proposals for secession on the basis of what can be defended by the army or what is necessary to be completely self-sufficient, hold no hope for the future. Secession must emanate from efforts to build friendly relations and to co-operate on the basis of equality. The movement of resources and services across borders should be promoted rather than prevented.

Political viability

Formerly the political survival of a state depended heavily on its military strength and its ability to obtain support from other states. In some instances the big powers were played off against each other. Nowadays big powers tend to resolve their differences through negotiation and it is no longer easy to play them off against each other. Small states tend to define their interests differently from the way they did in the past by avoiding clashes among themselves and with the big powers. Reconciliation of interests takes place at international forums where today small and big powers meet on an equal footing.

The political viability of an Afrikaner state will depend on its relations with South Africa. Unilateral secession and inimical relations will be detrimental all round. Statehood without recognition is not viable. On the other hand constructive relations can facilitate

(3) Self-determination is expressed in government which is rooted in the nation's history and its characteristic view of life, social organization and values. A political dispensation which applies in general, to all nations, is unattainable.

(4) While it is true that a nation's right to self-determination cannot be taken away from it, it is also true that the application of this right has to be reconciled with that of other rights and with the rights of others. The conditions in this regard are the following:

(a) Partition or secession which violates the sovereignty and viability of an existing state will not be recognised.

(b) New states which come into being on the basis of the right to self-determination will have to show proof that they are viable.

(c) The establishment of a new state must contribute towards international peace, more so than would be the case if the status quo were to be maintained.

ibid., pp. 15, 105.

ibid., pp. 71-72.

CHAPTER 5 OBSTACLES IN THE WAY OF NEGOTIATION

Introduction

According to almost everyone, the most pressing needs of South Africa are political stability and sustained economic growth. Conflict of interests which can lead to violence should be avoided in order to surmount difficulties in the way of achieving these ends. It is also imperative that a new constitutional dispensation be designed which is generally accepted in South Africa and inspires confidence abroad.

There is small prospect of achieving the above conditions. Differences in philosophy of life, values and critical interests which lie at the bottom of the attitudes, policies and the aims of the parties involved in negotiations, especially of the major parties, will be stumbling blocks to a greater extent than procedural and other practical issues.

The obstacles:

(1) Party policies

The government and other parties continue to adopt the party political style which has been followed for the past eighty years or more, whereas the new South Africa is based on general or national interests which cut across ethnic and language, and often across party, boundaries. Consequently party interests continue to be given higher priority than national interests.

For instance, the government has taken a stand on the issue of an Afrikaner state, thus effectively silencing supporters of such a state in its own ranks. As long as this approach prevails there can be no objective discussion of the matter at either high or low level in the civil service. Opposition parties also take a stand against an Afrikaner homeland because it will jeopardise their chances of gaining and maintaining control over the whole of South Africa.

The success of the newly emerging society depends on the ability of the parties to define their interests differently. Whereas under the old dispensation opposing principles constituted the life-blood of parties, it will now be necessary to accommodate conflicting principles. Parties will draw their strength from alternative practical programmes to promote general interests and to facilitate the accommodation of conflicting philosophies.

Through their present approach the government and other parties are not only sowing discord in their own ranks, but are also making enemies of organisations, parties and individuals who might well support them. They are driving them to revolt, whereas this should not be necessary in the kind of society towards which South Africa is heading.

A multi-ethnic state on the one hand and an Afrikaner state on the other, constitute

CHAPTER 1 AFRIKANER SELF-DETERMINATION

Definition

Self-determination is viewed as the competence of a nation to determine its own political organization and its status in international relations. Sovereignty is at issue: a sovereign people may choose its own constitutional dispensation and appoint its own government to implement and maintain that choice.

The concept of self-determination can be applied in different ways: by establishing an independent state; by seceding from one state so as to be incorporated in another; or by deciding on some other political destiny and status.

The choice of a particular form of self-determination is not irreversible; it is not exercised once and for all; it is not absolute and final once a particular form has been chosen. The peoples of Mali and Senegal have decided to form a federation and have broken it up again; likewise decisions have been made and changed in Central Africa, Malaysia and Singapore, Yugoslavia, Scandinavia and elsewhere.

Sovereignty, the competency of a nation to decide on its own future, is embodied in the definition of "self": it cannot be abandoned, forfeited or irrevocably removed, unless the "self", the nation, ceases to exist.

The need for self-determination

The South African Law Commission makes reference to Afrikaner self-determination in the following way:

"A significant number of parties, organisations and individuals subscribe to the view that the group that must be protected is the 'people'. To them every 'people' has a sovereign right to self-determination. In the South African context, this right means that every people is entitled to a territory of its own where it can govern itself as an independent nation and state. Therefore, they strongly object to the vision of the new South Africa as a 'unitary state', demanding the recognition of the right to 'partition' and 'secession'."

The report* goes on to say:

"It is clear that there is a need for self-determination for a people (national group) and that this need is recognised as a 'right' by the international community on certain conditions."

The Commission's interpretation of the legal status of a 'people' differs somewhat from

* South African Law Commission. 1991. Summary of Interim Report on Group and Human Rights. Pretoria, SALC. Pp. 27-28.

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Codesa is trying to trick Afrikaners out of their right to self-determination will have to be dispelled. A design is needed which will make it possible for those minorities who, genuinely want self-determination and who can comply with the international conditions in this regard, to secede. A unitary system, and a federation, will lead to black domination over the whole of South Africa, no matter what form of government there is.

Secondly, and most fundamentally, Codesa's declaration of intent and the interpretation given thereto, amongst others by the Minister of Constitutional Development, that the present South Africa must remain one state, will have to change. It summarily excludes the Conservative Party and other parties from negotiation. The homeland movement has taken this to mean that its representations would fall on deaf ears. As a result, rejection of Codesa has escalated to such an extent that it is no longer looked upon as a platform for negotiation.

Thirdly, in order to get away from uncertainty and from the conviction held by many that reform will end in revolution, the principle of Afrikaner self-determination will have to be acknowledged. This will force homeland Afrikaners into discussing the practical application of their demands for secession, amongst themselves and with government and other agencies. Constructive discussion might well follow. Homeland Afrikaners have neither sufficient funds nor the access to the media to be able to present their case satisfactorily in South Africa and abroad.

Fourthly, the government has all the means for investigating the merits of the different proposals for an Afrikaner homeland and should be doing a great deal more to initiate negotiations with opponents than it has done up to now. It is not enough to send written invitations to meetings where the dice is obviously loaded; where discussions obviously cannot take place on an equal footing and where the major parties have already made up their minds. Discussions must begin outside Codesa, directly between the government and homeland leaders or through intermediaries. This type of discussion must be possible otherwise there is little hope for relaxed participation in formal talks.

Codesa started off in December, 1991 with a conspicuous absence of conservative Afrikaners. (Conservatives probably constitute the majority of the 2,5 million Afrikaners in the country.) There were, however, those who wished to co-operate with Codesa. What they had hoped for was that it would be possible to put forward a proposal for an independent Afrikaner homeland; that agreement would be reached in principle and that this principle would be put to voters for approval as part of a constitutional package.

In less than two months Codesa has estranged itself from homeland supporters and managed to unite conservative Afrikaner opposition against it. All the homeland organizations supported a no-vote in the March, 1992 referendum, and did not think it worth their while to have anything further to do with Codesa while the present political dispensation continues. (Approximately 1,8 million Afrikaners and 1,5 million non-Afrikaners were eligible to vote in the referendum.)

This memorandum was prepared by the Afrikaner Freedom Foundation, one of the organizations who were prepared to work with Codesa. It was submitted to the working group dealing with constitutional principles with a view to explaining why Codesa's declaration of intent was unacceptable and why the Foundation questioned the existing constitutional process.

The point at issue is the right to self-determination, and to secession as a means of giving effect thereto. Van Dyke's ^o pronouncement in this regard is relevant:

"An obvious paradox exists in asserting, on the one hand, that peoples are entitled to equal rights, to self-determination, and to preserve their culture and, on the other hand, that they may not have the right to sovereignty that other peoples enjoy."

Codesa has landed itself in this very paradox. It acknowledges the rights of nations to self-determination, but sticks to an outdated notion of one undivided country. The Foundation's view is that this can only lead to a dead end.

The Freedom Foundation urges homeland Afrikaners to free themselves from the present political logjam by working for consensus on the issue of a homeland with those Afrikaners who pursue a unitary state. These two aims supplement rather than exclude one another.

Research, debate and writing about self-determination for Afrikaners have thus far been confined almost exclusively to Afrikaners who are working for a homeland. For various reasons, which will be referred to later, communication was directed internally rather than towards opponents of the idea, to other ethnic minorities or to the outside world.

With reform moving into its final stages, self-determination has become a critical issue. It has become clear that the parties in Codesa are ill-informed about the Afrikaners'

^o The Cultural Rights of Peoples. Human Rights Quarterly, 2 (April-June 1980), p. 4.