

# TOWARD A POROUS MEMBRANE: CIVIL SOCIETY AND THE STATE OF SOUTH AFRICA

By Michael Savage



Civil society is an all-embracing term for organisations and activities outside of the state or government spheres. During the apartheid years some of the most important internal initiatives in opposing apartheid and defending the institutions, people, and ideas opposing apartheid came from organisations, institutions and individuals firmly located within civil society. The apartheid government had little hesitation in launching sometimes crippling attacks on many opposing it. Many non-profit organisations (trade unions, churches, civic organisations, legal defence bodies and universities among them) suffered from state incursions in attempts to control core aspects of their activities. An ironic but positive consequence of these attacks was that they often helped to strengthen civil society by making those attacked more focused, more resourceful, and more determined in their opposition to apartheid. It forms a central antithesis of the apartheid regime that it helped throw up bodies addressing inadequacies in apartheid education, health, legal, employment and social policies and by doing so strengthened oppositional politics and activities, thereby helping bring forward its own demise. Then in 1994 came the end of the apartheid state and the establishment of the democratic state, which was accompanied by the state entering into new relationships with what was by then a generally vibrant civil society. But the relationship soon produced a totally different set of tensions between state and civil society. It is this canvas of transition to democracy and the tension surrounding the messy relationship of the state to civil society after the 1994 election that forms the setting for this essay.

The spectacular rise of the United Democratic Front (UDF) in 1983 decisively altered the internal political landscape in the quest for democracy. Its swiftly growing and inclusive broad base, grouped a wide range of varied civil society organisations under one loosely structured 'political umbrella'. The UDF provided space for diverse churches, trade unions, civic associations and many others, who all had a commitment to ending apartheid, to unite in common action and not

to focus on any of their differing ideological positions. The impact of the UDF rippled far out in varied ways into business, political parties, universities, and schools — through its public protests against the apartheid regime in the streets, through its member's involvement in non-UDF bodies, and through the spread of its operational style of consultative decision-making into other bodies. Its impact was considerable in giving a unified voice to those in civil society opposing apartheid. It operated in a richly diverse civil society. One pointer to this is provided in a 1998 study that showed an astounding 98 920 non-profit organisations existed across three major sectors: social services, culture and recreation, and housing and development.

While the majority of non-profit organisations were small, semi-formal, and community based, some fast growing formal bodies had emerged.<sup>1</sup> Dominant among these larger ones were the Urban Foundation, Kagiso Trust, IDASA (the Institute for a Democratic Alternative in South Africa) and the Independent Development Trust (IDT), all of whom to some degree were in tense dialogue with the apartheid state.

One of these, the IDT, provides a good illustration of the mounting pressures on civil society during the transition period. The IDT had been formed in 1990 and subsequently had come to play a significant role in social development, particularly in the areas of supplying housing, schooling, potable water, and assisting in rural economic development. In 1990 the IDT received ZAR 2 billion for its work from the state, derived from the sale of South Africa's hidden reserve oil supply.

The visionary behind the founding of the IDT, retired Judge Jan Steyn, and President FW de Klerk had agreed that no political capital should be made from the transfer by the state of this sum either by the state or the IDT. This agreement held. But after the 1994 election the impact and professionalism of the IDT, as well as the effective ways it

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<sup>1</sup> Mark Swilling and Bev Russell, *The size and scope of the non-profit sector in South Africa* (The University of the Witwatersrand Graduate School of Public & Development Management [P&DM] programme, 2002).

distributed its funds, indubitably caused resentment because it overshadowed the development work of others in government, and did not necessarily provide funding to activities and organisations favoured by some African National Congress (ANC) activists. A sorry saga then ensued.

Soon after the 1994 election Deputy President Thabo Mbeki established a small, probably informal group, within the Presidency involving Mojanku Gumbi (his personal lawyer), to consider the role of the IDT. It recommended that that the IDT from 1995 was to become 'an enabler' or 'facilitator' of services to the disadvantaged rather than to be an actual deliverer of these services. Dr. Mamphela Ramphele, the then Chair of IDT, was then given a directive by a senior government figure that this change was to be implemented and if it was not implemented specific legislation would be introduced to reclaim all state monies given to the IDT. She immediately obtained two separate written opinions from Senior Counsel that such legislation would clearly be unconstitutional, as it would involve expropriation without proper compensation. Despite this advice, and as the hard realities of the consequences of the threatened legislation unfolded, in a still unpublicised and unexplained move, the IDT transferred back to the state treasury the sum of ZAR 2 billion. This event provided a disturbingly clear indicator of the state's ability to impose *diktats*, emanating from a small group within it, on civil society organisations.

Over the same period the much vaunted Reconstruction and Development Programme (RDP) was established in May 1994. The Programme was led by Minister Jay Naidoo and was located in the Presidency, with its chief director Dr Bernie Fanaroff. Both Naidoo and Fanaroff bore no animus toward the IDT and saw it as an effective and efficient organisation. Understandably their view was that only those civil society organisations engaged in effective and efficient delivery of change should be considered eligible to receive any foreign donor monies. They then helped establish the National Development Agency (NDA) as the main channel through which civil society could access support for its work. But the NDA was plagued by maladministration and teething problems which prevented it from

providing a flow of funding to organisations that were in dire need of support in order to continue their work, in such areas as education, job creation, health and housing. Many of these organisations had been receiving substantial direct foreign aid which had now been switched into bilateral government-to-government aid agreements. While the NDA was to be a channel for some of this funding, it was failing to deliver with the consequence that important and efficient NGOs, particularly in the area of school education, rapidly went to the wall and closed.

But the work of the RDP itself was soon to be cut short. Over the course of its whole existence, despite repeated efforts, Naidoo and Fanaroff failed to secure any meeting with the then Deputy-President Thabo Mbeki to discuss and report on issues facing the RDP. Some explanation of this is now emerging. Totally unbeknown to Naidoo and Fanaroff, soon after its birth the RDP was under silent attack from within the Presidency. A small group had been formed inside Mbeki's office and was engaged in a series of meetings to construct the new Growth, Employment and Redistribution Strategy (GEAR), which was predicated on the total closure of the RDP programme. On 28 March 1996 Naidoo was called in by President Mandela and told he was being appointed as the Minister of Posts, Telecommunications and Broadcasting, and that the RDP offices were to be closed. His appointment was announced in the House of Assembly that day, as was the closure of the RDP — barely 23 months after it had been established. Not one iota of prior consultation with Naidoo, or with any person involved in leading the RDP, had taken place before its sudden closure was publicly announced.

Naidoo has since documented and reflected on the RDP and these extraordinary events:

...it was then, in 1994, we made the critical mistake... we demobilised our civil society. And I, as Minister for the RDP, was part of that grave mistake, because in saying our government... would deliver houses, schools, hospitals, clinics jobs and just about everything else the new South Africa desired, our own people became bystanders in the process. And

that was when the real engine for freedom came to a grinding halt, because the funding for civil society began to dry up as international donors swung their support from very viable civil society organisations to government-led programs. It was one of our biggest mistakes.<sup>2</sup>

The sector already was bleeding, for it was not only funding that was going, so too were some of its most qualified and prominent personnel leaving to take up positions in national, provincial and local government and within state institutions and also elsewhere. This messy transitional period for the relationship between civil society and the state was not made easier at the ANC 1997 national congress in Mafikeng when out-going President Mandela declared (in a speech widely believed to contain in-coming President Mbeki's heavy hand):

Returning to our own reality we must make the point that our experience of the last three years points to the importance of non-governmental organisations (NGOs) and community based organisations (CBOs) and grass roots-based political organisations in ensuring participation in governance... However we must draw attention to the fact that many of our NGOs are in fact not NGOs, both because they have no popular base and the actuality is that they rely on domestic and foreign governments, rather than the people, for their sustenance.<sup>3</sup>

He went on to criticise 'some NGOs' for corroding the influence of the ANC through playing a 'watchdog' role, he also directly raised 'the possibility' that some of these NGOs acted 'as instruments of foreign governments... to promote external forces' and specifically cited the United States Agency for International Development as being 'the instrument of a foreign government'. These remarks were widely

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<sup>2</sup> Jay Naidoo, "SA today – From freedom to transformation: Deepening the voice of the people", Harold Wolpe memorial lecture (17 November 2010): <http://www.wolpetrust.org.za/main.php?include=2&menu=6>. Also see Naidoo's autobiography *Fighting for justice* (Johannesburg: Picador Africa, 2010) on the RDP and its closure.

<sup>3</sup> Nelson Mandela: <http://www.anc.org.za/show.php?id=3254>.

interpreted as indicating a hostility to NGOs and CBOs and ominously thought to apply particularly to those that had not established a close relationship to the ANC.

The die was being cast away from creating sound productive relationships with the state and ominously toward a strong state-led control of civil society. The vital question was not being answered: How do civil society and the state productively inter-relate?

#### STANDING BACK

The membrane separating civil society and the state is a necessary one — when there is little separating the two a society is more than likely to be well on the road to some form of autocratic rule, for the state will have penetrated deeply into the remaining organs of civil society. The issue is one of striking the right balance in the relationship between the state and civil society so that those each side of the membrane respect the integrity and independence of the other and can interact easily.

Establishing this balance is seldom easy even in well established democratic societies, where contestations between the state and its citizenry frequently occur along such fault lines as abortion and the right to life, gun control, immigration, and rights in determining the shape of school education.

From the vantage point of a university I watched the porousness of this membrane change in South Africa. In the apartheid state there was a porous membrane separating Afrikaans medium universities from the state, and academics from these universities were far more likely to be appointed to government commissions, to be used as advisors and to intermingle with state officials than were their English speaking counterparts. But all universities had a series of inevitable and intricate ties to the apartheid state, for they derived most of their funding from it, research monies flowed through state created and funded bodies, those having medical schools most frequently had their academic staff appointed on tripartite agreements (state, provincial, and hospital

authorities), some academics were given relatively short periods of unpaid leave of absences to take up state appointments (but the then existing universities pension system acted as a severe discouragement to tenured academics to leave the university to take up any non-university appointments).

Many tensions emerged over the legitimacy of the state to interfere with university autonomy and academic freedom (among such tensions were the failed attempt by the state to impose a racial quota system for student admission in 1983, the tensions over the appointment of some staff, and over the detention and banning of both staff and students, the imposition of the Group Areas legislation to prevent the integration of student residences, and the banning of publications needed for academic purposes).<sup>4</sup>

The membrane between universities was ambiguously porous — with the state frequently violating the legitimate academic sphere, and with some universities strenuously resisting this, and with the porousness varying between Afrikaans and English medium universities.

The 1990-94 transition to democracy had an immediate impact on the universities' relationship to the state. Academic staff became involved in the negotiating process, took part in the multi-party talks leading to the interim constitution and to the first elections, became involved in the reform of state statutory bodies providing research funding, in the running and planning of health services, and some also became directly involved in the running and monitoring of the 1994 elections. The membrane was becoming more positively porous — academic expertise was being called on, and the state was recognising the immediate utility of universities.

The university experience was not dissimilar from that of wider civil society. Then things took a different turn.

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<sup>4</sup> See particularly Stuart Saunders, *Vice-Chancellor on a tightrope* (Cape Town: David Philip, 2000).

LOOKING AT THE PRESENT

After the 1994 elections there was a natural, massive re-organisation of the state and civil society. Personnel both from universities and other organisations in civil society left to take up state positions in state bodies and related organs to help lead the transformation to a non-racial future. Civil society was being denuded of many critical voices. The University of the Western Cape, proudly proclaimed to be 'the University of the left' lost many of its academic staff who became Cabinet Ministers, senior government, provincial and local government officials (and leading one of its professors publicly to term it the 'university of the left-overs'). Civil society personnel were appointed to senior state positions, as Director-Generals of government departments, to significant state bodies such as treasury, to municipal, provincial and national government positions.

But all was not well in the state. In a largely unreported 2011 talk at the University of Cape Town's summer school, Dr. Chippy Olver, the former Director-General of the Department of Environmental Affairs and Tourism in the Mandela government, indicated:

Under the ANC government there have been two complete revolutions in the civil service — then Deputy-President Mbeki pushing out the RDP office, then President Zuma swept out another lot... We are fuelling instability instead of institutional memory. It takes years to build a functioning department in the civil service, but you can wreck it in a week... In some places the state stands squarely in the way of development. In the Eastern Cape, for example, at every turn the government is an obstacle... So first get the basics right — efficiency, effectiveness, integrity and sound government... because politicising it [the civil service] has taken us to hell.<sup>5</sup>

While the sorry tale belongs elsewhere of how corruption and cadre redeployment infected and corroded the civil service and tainted government, the impact of all these trends in the organisation and the

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<sup>5</sup> John Mattison, "The developmental state", *City Press* (13 February 2011).



functioning of the civil service has had major ramifications on easy cooperative relationships between civil society and the state. In 1998 an embryonic maths, science and technology programme in schools in the Eastern Cape, funded by the Open Society Foundation for South Africa, was closed and the funding for it was added to a similar programme in the Northern Province. The Foundation had failed to get any traction for the programme mainly due to the difficulties it encountered in interacting co-operatively with the Eastern Cape Department of Education. Other civil society organisations have encountered similar extreme difficulties in permeating the membrane setting them apart from the state and in setting in motion cooperative development work.

So a picture emerges of how a once vibrant civil society that had opposed apartheid in the post-1994 period experienced attacks on some of its key bodies, such as the IDT, and lost important personnel to government and state bodies, had foreign funding disappear into bilateral agreements with the result that many NGOs closed, and had to face large obstacles in attempts to develop co-operative working relationships with the state. On the state side hostile attitudes to civil society emerged, two “complete revolutions in the civil service” took place as it became politicised and inefficiency and ineffectiveness set in, and few efforts are made from within state bodies to reach out to civil society organisations to join in addressing such major national problems as unemployment, a crumbling school system and a lack of sound basic housing.

#### LOOKING FORWARD

I offer four pointers to a way forward for civil society organisations:

1. THE VOICE OF CIVIL SOCIETY MUST BE EXPRESSED IF IT IS TO BE HEARD. A key phenomenon is fast emerging: a silence from within civil society. Nary a squeak is currently heard from the once prominent South African Council of Churches, the professions have become almost silent, the universities appear mostly quiet on how they relate to the state and to national problems, and the NGO world has become

quiescent too. There are honourable but few exceptions to this trend, among them are the Treatment Action Campaign focusing on HIV and AIDS and the health services, the coalition of organisations opposing the draft Protection of Information Bill, the Equal Education Campaign demanding proper facilities such as libraries and sound buildings for all schools. The voice of civil society though, is fast becoming silent.

Jay Naidoo rightly notes about civil society that “Despite the threats we are facing, we must remember we still have freedom of expression in this country... It is up to us to raise our voices and to make sure we are heard now... We need to find our voices again.”<sup>6</sup> The field is full of issues that civil society organisations need to address clearly and to indicate how to move forward on them. The growing silence in civil society is dangerous, and needs active steps to repel it.

2. CO-OPERATIVE PARTNERSHIPS WITH THE STATE ARE POSSIBLE AND NEED DEVELOPING. Despite the inherent difficulties in creating such cooperative partnerships, there are some fine examples of civil society organisations establishing co-operative relationships with state bodies in the delivery of change. I will cite four examples. First, some, although too few, of the fifty Further Education and Training Colleges have established joint programmes with employers to provide skills training for their students; second, there has been a direct devolution of state funds for bursaries at tertiary institutions to students identified and selected by ‘Rural Education Advancement Programme’ (REAP); third, the provincial authorities of KwaZulu Natal have provided guarantees of bursary support to students identified for medical training by the Uthombo Youth Development Fund as it recognises that the Fund’s selection processes in identifying students from impoverished rural communities, and its mentoring and programme structure have lead to high academic success rates and high retention rates of trained students in rural areas; and finally, the Small Projects Foundation in East London receives direct financial support from the

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<sup>6</sup> Jay Naidoo, “SA today – From freedom to transformation: Deepening the voice of the people”, Harold Wolpe memorial lecture (17 November 2010): <http://www.wolpetrust.org.za/main.php?include=2&menu=6>.

Eastern Cape government to cover the training costs of its Village Health Workers programme. None of these examples of cooperative action with state or provincial bodies had an easy birth, but they provide firm pointers to the possibility of creating successful partnerships. While some cooperative actions are almost stillborn (particularly those centred on Sector Educational and Training Authorities), others draw from the embers of a once vibrant civil society to create new, innovative relationships with the state. Such cooperation can extend far beyond being financial and into agreements about employment of NGO trained students in state bodies, or the use of educational material prepared by universities and NGOs in schools.

3. CIVIL SOCIETY MUST STIMULATE AND ASSIST IN THE GROWTH OF ORGANISED COMMUNITIES. The communities of various types can be identified — the scholarly community, the school education community, local communities engaged in actions to improve facilities (service delivery, crime prevention or employment), communities of local youth, communities of the elderly, of those with special needs are but a few among them. It is from communities that leaders emerge who can articulate clear demands and identify how to put words into deeds, and it is organised communities that have a particular strengthening impact on civil society.

4. SMART CIVIL SOCIETY ACTIONS REQUIRE SMART ORGANISATIONS THAT ARE ADAPTIVE AND REFLECTIVE. On the ground there are many exemplary actions centred in civil society that are able to be replicated, reorganised, and built upon. The Impumelelo Social Innovations Centre has a bank of valuable and hard details about such projects that stretch across the areas of education, skills training, water supply, housing, health and environmental management.<sup>7</sup> Institutional knowledge exists about successful academic and school programmes and is embedded in many universities and schools and also needs to be spread (such as the Mellon Foundation is in the process of doing across several South African universities).

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<sup>7</sup> See the Impumelelo website [www.impumelelo.org](http://www.impumelelo.org) for details of such organisations.

Civil society organisations must also develop their own critical monitoring and evaluation procedures. Some organisations create a new ‘dependency complex’ through providing the unemployed with skills training that does not connect to the labour market, others do not monitor the quality, or control the unit costs of their outputs, and others support unsustainable ‘community activities’. An equal obligation exists for both civil society and the state to have efficient and cost effective delivery systems.

Much work awaits to be filled out and nuanced on the canvas that this contribution has sketched upon, and many NGOs and others need to ‘tell their stories’ to broaden this picture, and fill it with detail, if the relationship of the state and civil society is to be understood and lead to positive actions.

But what this essay points to are the dangers of a leviathan and hegemonic state emerging in South Africa and violating the universally true proposition that a vibrant civil society is a critical element of a successful democracy.



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