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Threats and Challenges to SA becoming a more Open Society:

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Introduction:

1. I tend to think that it is less ambiguous and more clear to oppose a closed society than it is to partake in building an open one. In any case people are much more comfortable in identifying and describing a closed society than doing so for an open one. The concept of an "Open Society" was made famous by Karl Popper but it falls squarely within the tradition of liberal philosophy as espoused by Burke, Russel, Berlin, Gellner and a host of more contemporary researches and scholars.
2. For the sake of brevity let me define the ideal of an Open Society on three levels:

Politically it has to do with the constraint on tyranny and the abuse of power within a liberal democratic constitution. Key supporting features would be: the separation of powers; a Constitutional Court with a justifiable Bill of Rights and an Independent Judiciary.

Socially it is characterised by a robust civil society, independent media and minimal constraints on individual liberty such as freedom of speech, religion, association, movement etc.

Economically it has to do with constraining and enabling a market economy to generate wealth and economic development in the sense of improving the capacity of individuals and groups to improve their quality of life: By constraint in this context is meant combating corruption and exploiting people, and buying political influence and control. Particularly Amartya Sen and Stiglitz have emphasised this point.

3. Popper made the point that the ideal of an open society is not a destination but "an unending quest". There is always room for improvement. Again, in this context it is easier to say that a society is no longer completely closed than to state that it is completely open. I would like to believe that for the last 35 years a great deal of my time and energy has been spent in combating a closed SA and trying to build a more open one. But that is a matter of personal opinion so let me briefly motivate this.

A Personal Note:

1. From 1964 to 1974, I taught the Sociology of Development and Political Sociology at various SA Universities. When, (through a miscalculation on the part of the leadership of the Progressive Party who promised me that I did not stand the slightest chance of winning the Rondebosch Constituency), I won and went to Parliament, I was already steeped in the philosophy of liberalism. I had abandoned theology, thrashed about in existentialism in the mid Sixties, developed an aversion to Marxism and all closed philosophical systems and discovered that I was a liberal, through reading and teaching Popper and the others that I have mentioned.
2. From 1974 until 1986 I was a Member of Parliament for the Progressive and Progressive Federal Party. I shared the front bench with Helen Suzman for six years. It was an honour. Helen has devoted most to her life in opposing and fighting against the repressions of a closed SA society. She did so with great distinction and courage and I treat contemporary attempts to airbrush her contribution out of our recent past with absolute contempt. We have just survived 40 years of invented Afrikaner Nationalist History and it would be a travesty beyond comprehension if we now have to be subjected to a prolonged period of ANC invented history. To assist SA in becoming a more open society this kind of propagandistic extravagance must be combated at every opportunity.
3. Another person who deserves far more credit and recognition than he has been given in this context is Colin Eglin. He not only fought tirelessly inside and outside Parliament against Apartheid but was instrumental in helping to craft the first liberal-democratic constitution. He, in far greater measure than myself, had to endure the jeers and sneers of the so-called left, (where are they today?), for participating in a racist Parliament whilst being the beneficiaries of a racist ideology. I hope this tired old argument has now finally found its resting place.
4. I left Parliament in 1986. I wanted to leave in 1983 when the Tri-Cameral Constitution was endorsed by a Whites only referendum. I was prevailed upon to stay for one more year, I stayed for three. By

1986 SA was effectively governed by a National Security Management System under the command of the Security forces. I discovered the extent to which Parliament was being kept in the dark and systematically lied to, when I visited President Samora Machel at the end of 1985 in Maputo. He gave me a copy of the so called Vass Diaries, which I still have today, in which it was conclusively demonstrated that before, during and after the signing of the Nkomati Accord between SA and Mozambique, SA was systematically destabilising Mozambique by providing logistical support to Renamo and planting landmines. Today demining Mozambique still remains a priority in its reconstruction. I made it quite clear that I did not question the good faith of those who remained behind in Parliament but personally I felt that I could no longer continue either as Leader of the Opposition or as a Member of Parliament.

5. When I left, SA was hopelessly polarised between repression and revolt, and experiencing increasing international isolation. SA was a society under siege and became more closed by the day. Borraine and I started IDASA towards the end of 1986. Its initial purpose was to promote dialogue internally and externally on democracy as an alternative to the current impasse in SA. Domestically it took the form of workshops, conferences and so called township visits. The focus was primarily on Afrikaans speaking youth, although certainly not exclusively so. Externally the focus was on dialogue with the ANC in exile. In this regard the so-called Dakar Conference is the only one that is regularly singled out. However, between July 1987 until October 1989 conferences/discussions were held in Harare, Victoria Falls, Lusaka, Ghana, Leverkusen, Berlin, London, Paris and Madrid.

There were vigorous debates on a future SA Constitution, culture and identity, a future economy, legal system, international relations etc. I think it is fair to say that at the end of these meetings, the last being in October 1989 in Paris, I had a fair idea of the leadership, tensions and fault lines within the ANC in exile. Some of them endure to this day.

Bill Johnson, in his latest book refers to Dakar as an attempt by some "intellectuals, business leaders and others" to ingratiate themselves with their new masters. Only someone who continued in self imposed exile in Donnish seclusion at Oxford during the harshest years of Apartheid repression, returns after it was all over, and then sets himself up as the Ayatollah of Liberal thoughts and deeds, could make such a penetratingly inaccurate observation.

To quote him verbatim on p197 in SA: **The First Man, The Last Nation**: "this was the era of endless missions to Dakar and Lusaka to meet the ANC by business groups, intellectuals and others, all anxious to declare their good faith to the country's presumed

futures rulers and to secure their own situation in that future." As far as I know there was only one meeting in Dakar, I was the organiser of the domestic delegation, Breyten Breytenbach, who did the external arrangements, and I am dying to hear from Bill what situation I or Breyten have secured for ourselves with the new rulers. Callenicos, in similar vein, in her biography of Tambo, dismisses "Dakar" patronisingly with the observation that "there were after all some Afrikaners who were opposed to Apartheid, (p 595).

It would appear that historical airbrushing does not respect ideological boundaries when, both a liberal and a Marxist, misrepresent the past in this particular instant. Not for one second do I wish to portray IDASA as the organisation that was responsible for single-handedly bringing about the new SA. At most it helped to give legitimacy to discussions with the ANC. There were other initiatives, particularly from within State and NP structures. IDASA still thrives today and does sterling work as a watchdog over the new emerging democracy. It certainly does not work for the "new rulers" if the latest court case on political funding is anything to go by.

6. After De Klerk's speech, release of Mandela and unbanning of the ANC and other banned organisations; SA began moving from a closed to a more open society. In this context George Soros (who gave half the funding for the "Dakar conference" and had created the OSI in New York), phoned me out of the blue in 1992 and asked me whether I would help with setting up the Open Society Foundation for SA (OSFSA) and chairing it. I persuaded Mike Savage to become its first CEO and in 1993 OSFSA was launched. Since then until now it had an annual budget of +/- \$ 10 Million and supports projects strengthening the rule of law, an independent media, education, democracy building and combating AIDS. In 1996 Soros asked me to set up an Open Society Initiative for Southern Africa (OSISA) and focus on the nine SADEC countries: Again, depending on the problems in a particular country the projects which are supported have to do with state building, revenue watching, education, strengthening civil society, etc, etc. Since its inception in 1997 OSISA has had an annual budget of +/- \$ 15 million. Between 1993 until now the WDB was given seed money to start up micro lending in the rural areas for women. Its investment arm now has a NAV of approximately R 200 million. NURCHA was formed in 1995 and since then has built 164 thousand houses and assisted 70 emerging contractors. In 1993 Breyten Breytenbach and I started the Goreé Institute to promote democracy, development and culture in Africa. A few weeks ago we held a very successful workshop on the island, attended by representatives from 16 African Countries on "Electoral Reform in Africa". Since then President Wade has seized our conference

centre without warning or explanation and the Goreé Institute is in a state of crises.

7. Because I have been involved in all the above initiatives in a voluntary, (non-income generating), capacity I have had to pay for the groceries by being a political consultant and Chairman of a few business companies. I have made this personal note for two reasons; **one**, to show that a liberal has many opportunities to become involved in promoting the ideal of an Open Society in SA and **two** to hopefully, finally and conclusively answer the question: "Why are you not in Parliament?" Short answer, because I do not want to be; because opposing a closed society in Parliament is a necessary but insufficient step towards **creating the conditions** for a more open society, and being in Parliament in a more open society in SA, is a necessary but insufficient step towards **building a more open society in SA**. There are many other extra Parliamentary initiatives playing an important role in this regard, e.g. the Centre for Development Enterprise, C.P.S, Institute for Security Studies, The Helen Suzman Foundation, T.A.C., organised labour, SANGOCO, various Bar Associations, Universities, foreign foundations such as Ford, Carnegie, USAID, Rockefeller, DIFID, Nauman, Adenauer, Ebert, Embassies and research organisations such as Markdata, Markinor and Research Surveys.

8. Is SA now a more open society than it was before 2nd February 1990? Obviously and infinitely more so. Take a simple variable to drive home the point:

Stability: Place it on a continuum ranging from repression to consent and ask the question: What kind of stability was there in SA during the decade of the 80's? The answer: pure and simple repressive stability. One of the most ignored aspects of our transition is the transformation and partial disappearance of the Security Apparatus under the National Security Management System. (The I.S.S. has done valuable research in this regard). A lot of recces of 32nd Battalion are working for private security companies in trouble spots all over the world (+\- 200 in Baghdad alone). So what kind of stability does SA enjoy today? Is it more dependant on coercion than consent? Obviously not! In fact there are more complaints about the police not doing a proper job in combating crime than being an intrusive, repressive force in the private lives of citizens. Short and sweet, SA now enjoys more democratic stability than repressive stability.

9. Let me conclude this personal note by stating the obvious: I am not a scholar, researcher or historian. Most of what I have written has been borne out of my own experience and participation. From this perspective I feel that I can make a few observations on the threats and challenges to SA becoming a more open society.

Threats and Challenges:

1. Co-opting Democracy

1.1 SA is deservedly renowned for its liberal democratic constitution, which is one of the best in the world. It is useful to remember that neither of the main antagonists i.e. the ANC or NP were frustrated liberal democrats at heart. In fact, through numerous engagements I had with both of them before 1990, they made it quite clear that a liberal democracy was the worst possible option for a future SA. This in itself must instil some caution on how and whether, a liberal democracy will be consolidated in SA. What demands particular vigilance is how the rhetoric and key institutions of a liberal democracy are co-opted for sectional political gain? A familiar refrain is that "because the people have spoken, the party must use democracy for the sake of the people." (Bush). Majoritarianism is reified as the defining principle of democracy e.g. three wolves and a sheep voting what's up for breakfast.

1.2 Co-opting the Rhetoric

A very important threat is when the party in power uses the rhetoric of democracy whilst undermining the very values that are supposed to underpin it. Words like "transparency", "accountability" are used almost in inverse proportion to their degree of realisation. It is a particular responsibility of opposition in Parliament to expose this practice, but it needs the backing of civil society as well. This is a pervasive problem and the current American administration is an arch exponent of co-opting democratic rhetoric and nearer home Zimbabwe. In our case Travelgate and the Arms deal are causes for concern.

1.3 Co-opting the Supporting Institutions

As was said at the outset, democracy is about constraining tyranny and the abuse of power. For a large, dominant party it can become extremely irritating that the will of the executive can be frustrated by the Constitutional or Supreme Court, a Bill of Rights, a Human Rights Council, or movements in civil society. Rather than abolishing the Constitution or significantly amending it, the executive simply co-opts these institutions by appointing compliant or subservient members to them. What has to be constantly monitored is who and how someone is appointed to the Judicial

Services Commission, the Bench, the National Prosecuting Authority, the SABC, etc.

1.4 **The Erosion of Electoral Competition**

When I say that I have no personal desire to be involved in representative politics, I certainly do not wish this to be misconstrued as that I regard electoral politics as unimportant in promoting liberal values and a more Open Society. On the contrary, electoral competition at all levels of government, National, Provincial and local can and must play a significant role in combating voter apathy and indifference and strengthening the average citizen's involvement in governance. In a one dominant party democracy, of which ours is currently one, voter indifference remains a real danger. There are a few other problems that can contribute to the erosion of electoral competition:-

➤ **Racial Mobilisation**

In a sense, if a political party accepts the terms of our Constitution, it becomes almost involuntarily committed to liberal values. In this way "they are all liberals now". So what, finally, is the difference between e.g. the ANC and DA? It cannot be a fundamental and deep ideological divide. This was so under Apartheid, and those who opposed, had no uncertainty about what they were opposing: However, under the current constitution if the central argument becomes "the genuineness" or degree of commitment to liberal values as reflected in the constitution and this corresponds with a visible so called racial divide, racial mobilisation becomes the cheapest trick with which to undermine electoral competition. Furthermore, given that both the ANC and DA are historical parties, i.e. they come from the past into the present, the legacy of the past constantly imposes itself on the quality of political debate. In this way the word "liberal" is used as a racial slur, and the word "democrat" is used to celebrate majoritarianism. Both hold very real dangers that the erosion of serious electoral competition can threaten the ideal of an Open Society. Eventually a democratic constitution preserves some form, but loses its substance. Recently it was said of Russia under Putin's second term of office: News Week of the 28th February 2005 "Isolation is but one hallmark of Putin's current paranoia, another

is to the degree he is hostage to feuding within his own administration. To the outside world, Putin looks all powerful, he has consolidated more state control in his own hands, Parliament has become his tool dominated by his party where personal loyalty counts most of all things.”

➤ **The Electoral System**

Our electoral system is based on a closed list proportional system combined with floor crossing, a classic electoral oxymoron. Both contribute to the centralisation of political power and the absolute control of political patronage. If I have to register deep disappointment on one ruling of the, otherwise, commendable Constitutional Court, it is their flip-flop on floor crossing. In any electoral system, floor crossing is more often than not, used to get on to the gravy train, and this has certainly been demonstrated in SA. The ultimate danger is of course that this kind of combination in the electoral system contributes to party political stagnation and devalues the choice of the voter. Eventually this must contribute to eroding electoral competition.

2. **Political Succession**

O Donnel, Schmitter and Whitehead in their research on Latin American transitions observed that the most perilous moment in an emerging democracy is when the party which won the founding election is faced with defeat at a subsequent one, or when succession in political leadership has to take place. The temptation to “change the rules of the game” often becomes irresistible. The former seems unlikely in SA for the time being and the President has already indicated that the second is not about to happen. Nothing affirms Afro-pessimism more strongly than either event, Togo being the most recent example and it appears as if Mugabe is going to rig himself into another term as well. Again the quality and scope of opposition can play a critical role in protecting the rules of the game. Their persecution and repression is very often the first sign that things are going wrong in this regard.

3. Accommodating Traditionalism in Modernity

- 3.1 In SA, approximately 25% of the electorate live under and accept traditional authority. This creates all kinds of anomalies between customary and civil law, ownership of land, the status of women. Because SA is approximately 60% urbanised this stimulates the broadening of modernity by which is meant strengthening a market economy, popular governance and the rule of law. Our Constitution tries to accommodate traditional authority into democratic systems of governance but there is a very real contradiction between them. The concept of an open traditional society is an oxymoron and one simply has to read the latest Swaziland Constitution to understand why. The monarchy exploits all the benefits of a modernising economy without sacrificing traditional control.
- 3.2 South Africa's high level of urbanisation makes the tension between traditionalism and modernity more of a challenge than a threat. However in Nigeria and Senegal, who claim to be democracies, traditionalism plays a disproportionate role in determining who holds public office and in Nigeria in particular ethnic rivalry is developing into powerful centrifugal forces. Keep in mind, a compliant chief is still the cheapest form of political organisation and vote getting during a general election.

4. Balancing Growth and Democracy

- 4.1 The challenge here is to find a balance between the imperatives of a market economy and the promises and practice of democratic governance. Correlated with each other there are four possibilities and empirical examples can be found for each: Growth without Democracy, e.g. China; Growth and Democracy, e.g., India; Low Growth and Democracy, e.g., Namibia; Low Growth and no Democracy, e.g. Sudan.
- 4.2 SA has a macro-economic policy that is pro market e.g. low deficit, some privatisation, minimising exchange control and a commitment to a more flexible labour policy. Each one of these policy objectives can come at a political cost and is exploitable in the political arena. COSATU has made no secret of its rejection of privatisation and a more flexible labour market. Does the government sacrifice political tolerance for a more market friendly economic policy or does it slide towards

redistributive populism? Both hold dangers for building a more open society in SA. What strategies can be pursued in the private public sphere to assist in finding an appropriate balance between growth and democracy?

5. **Neglecting the Poor for an Enclave Society**

Steven Friedman recently wrote a provocative piece in Business Day in which he showed how isolated, and insulated, the very poor are in urban informal settlements. They have no means of plugging into the available political, social and economic resources and their numbers are increasing. At the same time Manual's 2005 budget depended 50% on income tax from personal and corporate sources. The personal tax contribution was +/- 30% and came from +/- 4 million South Africans. The very poor cannot pay tax and depend on service delivery. Almost, unnoticed the middle, upper middle and wealthy classes are beginning to withdraw into urban enclaves where they privatise their own services and become less dependant on the State. A quiet tax boycott could begin to take effect and less income is generated for the State, which it desperately needs to provide services for the very poor in urban settlements. The result can be generalised indifference and neglect. It is to the credit of the President in his recent State of the Nation address as well as the Budget of the Minister of Finance, that they focussed specifically on this dilemma. The classic case of an enclave society, at least up to a few years ago when I visited there, was Victoria Island in Lagos where the wealthy cordoned themselves off from central Lagos and there excrement literally flowed in the streets. In SA, non-racial enclaves are beginning to mushroom in most urban centres.

6. **Effective Delivery of Services**

This problem is intimately related to the one just mentioned. Effective delivery depends on two critical factors, efficiency of administration and the absence of corruption. Both are major challenges to South Africa succeeding as a more open society. Anger and disillusionment is mounting almost daily because of the incompetence and corruption of officials who have to deliver services, particularly at the third tier of government. It is pointless for the Minister of Finance to articulate an excellent budget when at the point of implementation and resource allocation there is no ability to deliver.

7. **The Resilience of Apartheid Logic**

Nowhere is this more apparent than in the various policy pronouncements on Black Economic Empowerment. Nobody can deny the need for transformation, closing the gap, skills

development, etc, but if it is couched in the same rhetoric that was common under the Population Registration Act then SA can budget generously for failure. When I recently asked an official from the Department of Statistics, how they identified Coloureds, Asians, Whites and Blacks in their national surveys he glibly replied "self classification". This is obvious nonsense. The current BEE Act defines a Black " as somebody who is identified as Black by the Act, and includes Coloureds, Asians and Africans". Currently comments on the Code of Good Practices are awaited to be incorporated into the Act. Under Apartheid two things happened when unimplimentable legislation was passed: a whole new cohort of lawyers developed advising clients how to circumvent the intention of the Act, and corruption. The same is bound to happen here. We do not need Apartheid logic to address problems of inequality and underdevelopment. The more we do, the more difficult it is going to be to build a more open society in SA. Legislating racial and racist entitlement is what eventually led to bureaucratic overload under Apartheid. There is no reason to believe the same cannot happen in a new SA.

Conclusion

1. Most of the threats and challenges I have mentioned are familiar to us all and so are many others that I have not discussed, e.g., AIDS, AIDS orphans, neighbours in crises, such as Swaziland, Angola, Zimbabwe. Not all challenges are threats whereas most threats can be taken on as challenges. For example, the country with the highest level of direct foreign investment in Southern African is Angola. A clear case where FDI acts to close rather open society. Dos Santos received more than \$1.5 billion from Texaco, Elf and some Russian oil companies for his own back pocket. He is the second wealthiest man in Brazil. All this was exposed by an NGO called **Global Witness** and resulted in a **Publish What You Pay** campaign which put pressure on the oil companies to show where their expenditure went and this in turn is now putting pressure on Dos Santos to explain what he is doing with the money. The pressure for a more open society in Angola originates also in Texas and Paris. In almost all OSISA counties there is a budget review process where sources of State Revenue are checked and their expenditure monitored. Citizens are then made aware of how they are getting the short end of the stick. In SA, IDASA does excellent work in this regard.
2. Comparatively speaking SA is the jewel in the crown as far as a new operating liberal democracy is concerned. However, we are still in our infancy and a great deal can and must be done to ensure that here an open society endures and grows. What is extremely important is that the mere existence of a Parliamentary democracy is no guarantee that we will succeed. Parliaments have been used

to close down societies overnight. On the other hand if those challenges and threats I have mentioned are adequately dealt with in civil society, the State bureaucracy and organised business and the private sector, a Parliamentary democracy thrives and plays a very important role in strengthening the growth of a more open society.

3. Finally, I hope that the way I have tried to present the ideal of an Open Society within the SA context will persuade liberals that they do not have to reinforce stereotypes about being whiners, whingers, badmouthers, denouncers, sulkers or pontificators; they can be activists as well. The new SA is open enough to accommodate all kinds of liberals to help strengthen it and prevent it from becoming closed again.