

ARTICLE FOR SQUIRE MAGAZINE

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6 September 1983

PARADOXES BUILT INTO OUR CONSTITUTIONAL FUTURE

A great deal of heat has been generated in this constitutional debate and over-inflated claims have been made on the merits and demerits of the new constitution.

One perspective that has not enjoyed a great deal of attention, as far as I can see, is the consequences for a free enterprise society should this new constitution become reality. The most characteristic ideological thrust of the free market system is that any individual, irrespective of his birth, race, sex or religion, should be allowed to pursue opportunity to the best of his or her ability. Only when these conditions are maximized in a society can we truly talk about genuine free enterprise. It therefore follows that any organisation, any corporation or any individual concerned about promoting free enterprise and maintaining it as the economic system in society, would act directly against any kind of artificial intervention or impediment in the way of the individual when this individual tries to pursue his or her economic opportunities to the best of his or her ability.

Furthermore, it is common knowledge that the laws that have been passed by an all-white parliament, such as the Pass Laws, the Group Areas Act, the Population Registration Act, the Separate Amenities

Act, the Physical Planning Act, etc., etc., all these political measures directly interfere with a free market system. Not only do they interfere, but they grossly discriminate against one section of the population in the free market on the simple basis of race. It is a matter of common knowledge that a Black man or a Coloured man or an Indian man is not as free as a White man to pursue economic interests and opportunity in the market of South Africa.

Therein lies the greatest long-term threat to the continued existence of the free market system, for, if the majority of people, namely Black, Coloured and Indian, begin to believe that a system of discrimination in the political sphere is necessary to maintain an economic system such as free enterprise, then we will reach a situation where an alternative ideology will develop such as Socialism, whether it is Black Socialism or Marxist Socialism, in which it will be claimed that this is the only solution to combat a system of racial exploitation. Already we see the signs developing where the political exploitation of people on the basis of race is being linked to the economic system in South Africa and young Black radicals are beginning to argue that you will never be able to get rid of apartheid unless you get rid of capitalism as well.

Given this disturbing development in our society, what promise does the new constitution hold out for coming to grips with this issue? Right at the outset a very simple and straightforward paradox can be noticed. The new constitution totally excludes Blacks from participating in the government of South Africa. The new constitution argues

that Blacks cannot be seen as citizens of South Africa on the same basis as Coloureds, Asians or Whites and that another constitutional road will have to be followed for them. Therefore, those Whites who vote "yes" on November 2, whether they intend to do so or not or whether they like it or not, are in effect saying to Black people in South Africa that it is correct that they should not be citizens of South Africa.

But, it is more than that. It is saying not only "yes" to the new constitution, it is saying "yes" to the Pass Laws; it is saying "yes" to all those discriminatory measures which Blacks feel in their everyday lives. I am therefore totally astounded that business-men who are so concerned about promoting the free market and free enterprise cannot be aware of the consequences that their support for the new constitution will have on Black/White relationships in South Africa. One Black spokesman after the other of very moderate political persuasion, has made it quite clear that they find their own situation untenable as a result of the new constitution; that they are being radicalized by the youth who claim that negotiation politics really means nothing because, in the final analysis, they cannot show any results and this constitution simply confirms their impotence. This point has been made time after time by people such as Buthelezi, Ntsanwisi, Phatudi and others.

The second paradox that I wish to mention is that the new constitution is being presented as a break-through for reform. What has to be reformed? It is quite clear that what has to change, and what we

have to move away from, is racial discrimination, racial exploitation in South Africa. Therefore one would expect that laws which clearly discriminate on the basis of race will have to be the first prime targets that will have to be worked on should this constitution become reality.

However, two of the most discriminatory laws on the Statute Book - the Population Registration Act and the Group Areas Act - are seen to be necessary to make this new constitution work. And we have the paradoxical situation that a constitution which is presented as an instrument of reform actually has discrimination built into it in order for it to work. This surely must place any Coloured or Indian political leader in an untenable position should he or she move into this new constitution. How can they participate in a constitution in order to bring about reforms when the very issues which they wish to reform are part and parcel of the new constitution? That is also why I believe this new constitution contains the elements for racial conflict.

But again, the Population Registration Act, insofar as it racially classifies people, and the Group Areas Act and the Separate Amenities Act are all instances which militate against the idea of free enterprise and a free market society. And these are now to become cornerstones on the new constitution.

Quite apart from any other constitutional considerations on the workability of this new constitution, on whether it can be financed,

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on whether it is practical and so on, the one major danger that I see as a result of these two paradoxes is that the new constitution militates against the promotion of a free enterprise society and therein lies a very real threat to the prosperity and peaceful future of all of us. If one really appreciates these dangers tied up into this new constitution, then I believe, despite all the extravagant claims being made for a yes-vote, there is no option for us but to say "NO - no good for South Africa. We must try again."

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A. J. J. G. Stobbs.