

**A REVIEW OF
'A DEMOCRATIC SOUTH AFRICA?
CONSTITUTIONAL ENGINEERING IN A DIVIDED SOCIETY'
By DONALD HOROWITZ**

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Horowitz has some quite discouraging observations on South Africa's political future: "A democracy is possible, but improbable in South Africa." What makes him pessimistic is that it is late in the day for South Africa. It has squandered too many good opportunities. Therefore, it is going to be forced to take decisions in a crisis atmosphere and might end up settling for short term style, rather than long term substance. Particularly those who negotiate, will create the illusion of settling for absolute guarantees (which are impossible), rather than looking for enduring incentives that could sustain democratic government.

Furthermore, keep in mind, says Horowitz, that since 1967 (almost a quarter of a century) power has never passed from one elected government to another in Africa, and in South Africa during the 1980's especially, people have become "accustomed to local tyrannies". In fact: "No matter how we frame the question, South Africa appears to be another case in which there are more rewards for politicians to pursue both conflict and hegemony than to pursue accommodation and democracy." This is not uplifting stuff for "democratic innovators" and "constitutional engineers" caught up in the current dynamics of transition in South Africa.

And yet, the task that Horowitz has set himself is to show how South Africa can sustain democratic government after transition away from domination and Apartheid. This is an important and provocative book, written in an intellectually uncompromising and lucid manner. It has the virtue of flushing out all the ideological shibboleths that figure in political debates on South Africa, whilst the author candidly professes his own: "It is my view that ethnic and racial divisions will be a prominent part of the South African political system"; "After South Africa manages to eliminate white domination and intra-African differences will be particularly important"; "The struggle against Apartheid has created illusions about the homogenous character of a future South Africa"; "Homeland politics show that there is a substructure of allegiances and divisions available for activation when a new context brings African politics into the foreground"; "Conflicts among direct popular democracy, Leninism and liberal democracy have only begun to surface (within ANC/UDF/PAC/AZAPO circles) but they are profound." In short, Horowitz sees South Africa as a deeply divided plural society with some distinctive problems of its own, but with many others to be found in other deeply divided plural societies. Consequently in posing the question "Can South Africa become a democracy?" he draws on comparative knowledge of problems of democratization experienced in other divided societies.

It would be facile and wrong to dismiss Horowitz as a "primordialist" deifying race and ethnicity. He is methodologically quite aware of the difficulty of talking about, or even describing the nature of the South African conflict and devotes the first three chapters of the book enumerating some of the difficulties that confront democratic planners in South Africa. "These include a profound descensus about how South African society should be understood and transformed." It is this descensus which lies at the root of different proposals for a democratic South Africa and is responsible for the gap between apt and acceptable solutions (i.e. those that are apt are not acceptable, and many that appear acceptable are not apt.) This leads him to his pessimistic conclusion that inclusive democracy is improbable in South Africa. But he says "In that respect, South Africa is by no means out of line. Not only is democracy unusual in Africa, but it is also rare in ethnically and racially divided societies more generally. Such societies need special precautions if they are not to be overtaken by authoritarianism."

The rest of the book concerns these "special precautions". It is my view that one does not have to share Horowitz' emphasis on ethnicity and race (and I do not), to take these "special precautions" seriously, both during and after transition. In fact, it is one of the distinctive merits of Horowitz' book that he takes the actual process of transition seriously and attempts to relate it to a possible post-transitional democratic South Africa. This alone makes it compulsory reading for those "democratic innovators" both inside and outside government in South Africa who speak so confidently of the remedial impact of "multi-party conferences", "interim governments", and "constituent assemblies" on democratic process and outcome in South Africa. A point repeatedly made is that once you start off on the wrong track it is almost impossible to undo the damage later on: "The point is to attempt to think clearly about the matter at the beginning, to urge apt institutions on the designers and indeed to urge maximum incentives for accommodation in everybody and at every level, but not to persuade the designers to reject anything other than the perfect plan. The perfect plan will not come along."

Horowitz draws a clear distinction between two categories of incentives for accommodation. Incentives for a post-transitional electoral system to reward moderation and prevent radical outbidding and racial/ethnic polarization and incentives during transition which could make post-transitional incentives for moderation acceptable to the negotiating parties. Again, one does not have to accept his specific assumptions or proposals to realize the validity of the problem that he poses. The central thesis of Horowitz' argument is that incentives both during and after transition must appeal to the self-interest of parties and politicians and therefore institutions and processes have to be designed to reward moderation and undercut polarization, and if done successfully, politicians will respond moderately in their own self-interest.

It is difficult, particularly when discussing post-transitional incentives for moderation in a future democratic electoral system, not to feel that Horowitz argues tautologically. He is in favour of a Presidential, Federal System of Government for South Africa, in which there has also been a "compositional change in the instruments of force" to make us "coup-proof". However, it is in the electoral system which is "by far the most powerful lever of constitutional engineering for accommodation and harmony" that Horowitz

wishes to build in incentives for moderation. As he sees it : "the challenge is to take an environment conducive to ethnic and racial allegiances in the party system and create incentives for parties to bid for floating voters who would otherwise vote for their group identity." The specific electoral mechanism he favours is coalition building based on party proliferation, proportional representation and particularly "vote pooling". The latter involves an "exchange of votes of their respective supporters by opposing parties." To induce vote pooling in the electoral system there has to be – (i) a proliferation of parties; (ii) heterogeneous constituencies and (iii) electoral incentives to make vote pooling profitable. But this is where the problem arose!

Horowitz makes no bones about the fact that, in his view, in a post-transitional South Africa, party proliferation will follow racial and ethnic divisions and that incentives should reward politicians who appeal to voters outside their own particular racial and ethnic affiliations. He admits that he does not know now how parties and racial/ethnic groups will correspond, but says: "If I am wrong and they do not, no harm will be done." These electoral systems will still encourage conciliation along whatever lines of difference emerge in the polity – including, but not limited to differences based on policy, ideology, class or region. Consequently to adopt these innovations is not at all to bias the future political system in favour of ethnic or racial politics; only to take precautions against severe polarization of any kind.

Post-transitional incentives to reward moderation in the electoral system are certainly important. However, it is the "incentives to accept such incentives" during transition itself that are crucial. Because, argues Horowitz, if such incentives during transition are not effective, there is precious little hope that we will have sustainable democracy after transition, no matter how pretty our democratic packages may look on paper.

It is here that Horowitz is not particularly impressive and does not perform much better than many other analysts that he dismisses, and sometimes not without some arrogance. (His treatment of Adam in particular smacks of this.) What decides participants on a commitment to a new democratic system? Deterrence? (i.e. countervailing sources of power); Habituation? (i.e. waiting for democratic habits to take hold); Reciprocity? (i.e. pacts and trade-offs); Changing belief? (i.e. through learning about the failure of democratic outcome). No, says Horowitz, these may help but they set too demanding standards.

Perhaps, he argues, South Africa may be "sufficiently chastened by its current prospects to reject mere intergroup horse trading in favour of public policy making". Perhaps "the unpleasant experience of the past and a desire not to repeat it could induce the participants to put "public interest" before party interest. Therein lies the root of a "new social contract". This is certainly not new and earth shattering. Certainly no more profound than the humble offering of the other analysts of the same problem that Horowitz patronizingly raps over the knuckles.

Democracy, he goes on, will have to emerge out of a "new configuration of interests, positions and strategies that take shape as events unfold." In that process, incentives can

change and change dramatically, as democratization gets under way. There can be "a transformation of the structure of incentives as a result of a differential commitment of various parties to the initial democratization process." This is tantalizing, but not very informative. It is nice to know that "the bonds that grow up among the founding generation are so important, as is the rapid use of accommodative mechanisms of the new arrangements." But what are the transitional incentives for such bonds other than a commonly shared "unpleasant experience of the past?"

Translated into the vernacular of South Africa's current dynamics, Horowitz seems to argue that the quality of the interaction between De Klerk, Mandela, Buthelezi and organized labour etc. as they grope towards transitional arrangements, will somehow generate incentives that will reward democratic procedure and outcome. He talks about a "three sector party spectrum" during transition: an emerging coalition in the center (maybe De Klerk, Mandela, Buthelezi, et. al) flanked on the left by the radical militants and on the right by reactionary militants. The flanking parties outbid the compromises of the coalition thus drawing it further into new agreements and the coalition develops a vested interest to make a success of their transitional arrangements. This presumably creates the "bond in the founding generation" and facilitates acceptance of post-transitional incentives for moderation in the electoral system. These are certainly not original insights but within the context of our transition, Horowitz presents them in a plausible manner, and focuses attention on a very important dilemma that has to be solved.

An interesting paradox is Horowitz' insistence that a necessary element to induce vote pooling in a post-transitional electoral system is party proliferation, and according to him, more than likely, along racial/ethnic cleavages. However, during transition he talks about a "three sector party spectrum" where the coalition in the center has very little to do about party proliferation on racial/ethnic lines. When exactly does he see party proliferation taking place? Certainly not during transition. How then can a transitional coalition make provision for an electoral spectrum that does not exist, but such a coalition must begin to forge a system of incentives for a post-transitional electoral system where party proliferation will abound and moderation has to be rewarded.

Another serious omission is any reference to the state of the economy during and after transition. Perhaps he takes this as given, but it serves to be continually emphasized that no successful transition to democracy is easy in a declining economy. In similar vein, I find the absence of any consideration of the State and its relation to democratic transition and constitutional outcome surprising. South Africa has, over decades, managed to create a cumbersome bureaucratic monster that has to be transformed and made serviceable to a new and democratic South Africa. This must be a critical element of regime change in South Africa and no amount of constitutional engineering or "foundational pacting" can afford to ignore vested interests in the current state structure. Vide the current problems of security and violence.

The above shortcomings may arise out of a tendency to be too formalistic on the current dynamics of transition in South Africa. However, these issues do not seriously detract

from the merits of Horowitz' book. He has written a new and fresh one on old problems concerning South Africa's conflict. At this particular period in South Africa's transition, this is very useful and it needs to be read widely and seriously by "democratic innovators" and "constitutional engineers".