

The politics of ethnicity and the post-apartheid constitutional dispensation

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Twenty years ago, as South Africa moved away from the apartheid era, one of the major issues that many academics and politicians grappled with is the role and place of ethnicity in post-apartheid South Africa. The central issue at the time was thus whether the ethnic identity that the apartheid government attempted to promote would continue to be muted or would emerge with the end of the white domination. Many scholars and politicians insisted on the relevance of ethnicity in South Africa. When the white domination comes to an end, some predicted the weakening of black solidarity and that ethno-linguistic differences among Africans will become politicized. The offshoot of this argument was that the architects of post-apartheid South African constitution must guard themselves from turning a blind eye to the political significance of ethnicity in South Africa. More importantly, however, it suggested that the post-apartheid government cannot avoid the entrenchment of ethnic identities in the Constitution. Fast forward to the present and questions regarding the political relevance of ethnicity continue to feature in the debate on the future of provinces. Those in favour of abolishing or reconfiguring provinces are at pains to stress that provinces are becoming instruments for the promotion of ethnicity or tribalism, as it is commonly known in South Africa. This paper seeks to examine how the post-apartheid constitutional dispensation has responded to the significant (insignificant) political relevance of ethnicity in South Africa.

South Africa: A country of minorities?

Many depict South Africa as a country of minorities. This may not always be easily subscribed to as there is little agreement about the cleavages of South African society. As Maphai commented, “there are as many groups as there are group ideologues in South Africa”.¹ Some may base their analysis on the race divide and reject the conclusion that South Africa is a country of minorities. This frame of analysis

¹ Maphai 1995: 78.

considers black Africans as an undifferentiated homogenous group, making them a numerically dominant segment of the society.² Those that regard South Africa as a country of minorities adopt, by contrast, ethnicity as the relevant fault line, which, in the South African context, is, more or less, identified with language groups. Analysis of South African society based on this fault line would indicate that no single ethnic or language group commands a numerical majority.³ Eleven major languages are spoken in South Africa. According to the 2012 census, Zulu speakers, the largest linguistic group in the country, account for 22.7% of the population followed by isiXhosa (16.0%), Afrikaans (13.5%), Sepedi (9.19%) English (9.6%), Setswana (8.0%), Sesotho (7.6 %).⁴

This paper focuses on ethnicity. In South Africa, the African language groups at the same time refer to ethnic groups. This is not, however, the case with Afrikaans and English speakers. Afrikaans speakers, for example, includes both white Afrikaners, who can be defined as ethnic Afrikaners, and members of the Coloured community, who do not necessarily share an ethnic attachment with white Afrikaners. The English category similarly includes people other than English-origin.

2. Towards post-apartheid South Africa: The emergence of politicised ethnicity?

Following the dramatic announcement of the release of Nelson Mandela and other prominent political prisoners from prison in February 1990 along with the unbanning of the ANC, the stage was open for negotiating the future of South Africa. One of the major issues that many academics and politicians grappled with, and continue to grapple with, as South Africa moved away from the apartheid era, is the role and place of ethnicity in post-apartheid South Africa. The central issue at the time was

² Racially speaking, the country has been divided into four racial groups: Blacks, Coloureds, Indians and Whites. According to a recent census, 79.2% are regarded as African, 8.9 % White, 8 % Coloured and 2.5% Indian (Statistics South Africa 2012a).

³ Justice Sachs, based on the same frame of analysis, depicted South Africa as a country of minorities. “[T]here is no clear majority population in South Africa....Linguistically and culturally speaking, there are only minorities” (In *re: the School Education Bill of 1995 (Gauteng)*, 1996 (4) BCLR 537 (CC))

⁴ Statistics South Africa: Census 2012a.

whether the ethnic identity that the apartheid government attempted to promote would continue to be muted or would emerge with the end of the white domination.

For some, the conflicts that engulfed the country in the transition process suggested the resurgence of ethnic mobilisation. In the early 1990s transition process, the country was marred by conflicts which were cynically referred to as ‘black on black’ violence. It is estimated that more than 14,000 people were killed in political violence in the four year period spanning from the beginning of the negotiations until the elections were finally held in April 1994. These major conflicts in black communities were considered by some as ethnic conflicts between the Xhosas and the Zulus. Although originally confined within the regional boundaries of KwaZulu–Natal, the conflict later spread to the Pretoria-Witwatersrand-Vereeniging area. The conflicts were regarded by some as the early signs of the political mobilisation of ethnicity and ethnic conflicts. Ethnic mobilisation was especially evident among the Zulus. In making an appeal for ethnic sentiment among the Zulus, the IFP and particularly its leader, Chief Mangosuthu Buthelezi, heavily relied on the history of the Zulu Kingdom. What might have possibly fed into the emergence of ethnic mobilisation was the claim that the ANC was a Xhosa organisation. Of course, this is not without merit. The most prominent ANC leaders predominantly have been Xhosa–speakers.⁵ It was not only the ‘Zulu question’ that drove the muted ethnic question home. Like the IFP, Afrikaner based right-wing parties mobilised around ethnic identity. When it eventually became clear that apartheid was coming to an end, right–wing parties, which started to become more militant, demanded an “Afrikaner” homeland.

The ethnic mobilisation that was evident among members of the Zulus and Afrikaners was also reflected in the constitutional options proposed by those that claimed to represent the interests of these communities during the negotiations for a new South

⁵ Despite the fact that Chief Albert Luthuli, President of the ANC from 1952 to 1967, was a Zulu, both Nelson Mandela and the incumbent president of the country, Thabo Mbeki, are Xhosas. The other prominent leaders of the ANC, including Oliver Tambo, Walter F. Sisulu and Chris Hani, were Xhosas. In the early 1990s, the composition of the ANC’s national executive Committee displayed a disproportionate representation of the Xhosas. Of the twenty black members of the ANC’s national executive committee, ten were Xhosa with the other ten divided between Tswana (5), Pedi (4) and Zulu (1). For more, see Horowitz, 1991; Lemon 1996.

Africa. The National Party initially argued that the accommodation of the heterogeneous South African society in some form of countermajoritarian settlement was a constitutional imperative.⁶ Rejecting a pure majoritarian system, the party proposed a number of countermajoritarian principles, which could generally be couched in terms of power-sharing and self-determination. Supported by similar demands of the leaders of the homelands, especially Ciskei and Bophuthatswana, the party also called for strong regional units. The strongest demand for federalism as an instrument to protect territorially based ethnic interests came rather from the Zulu-based Inkatha Freedom Party (IFP), which proposed an ‘extreme form of federalism’ that would involve the devolution of extensive powers to the provinces.⁷ The party also demanded a special recognition of the Zulu monarchy and threatened secession if its demands for the political recognition of the ‘Zulu Nation’ in a federal arrangement were not met. The Afrikaner based right-wing parties also sought for the establishment of a separate Afrikaner homeland, a *Volkstaat*. These parties were later joined with leaders of some of the homelands and the IFP to establish a loose coalition known as the Freedom Alliance in 1993. The objective of this alliance was to reject the individual-rights based new democratic constitution and advocate for the inclusion of ethnic identities in the Constitution.⁸

As a direct result of the experience of the Bantustans, the ANC, on the other hand, expressed a great deal of objection to the idea of adopting a federal constitution that institutionalises ethnic differences. Proposals for the devolution of power to strong regional governments in the form of federalism was seen as a neo-apartheid scheme that could be used to thwart majority rule by drawing boundaries along the lines of race and ethnicity to maintain “white minority privileges”. The ANC rather reiterated its long-standing commitment to develop a state that is racially and ethnically neutral. It emphasised a policy of nation-building based on common citizenship and national identity, protected by a system of individual rights that is enshrined in a constitutional

⁶ Klug, 2000, 104.

⁷ Manby, 1995: 42. The hallmark of the model of federalism proposed by the IFP was that member units of the federation decide the nature and scope of the powers of the national government. This led authors like Klug and Ellmann to conclude that what the IFP was proposing was confederalism although it was presented as a form of federalism.

⁸ Ebrahim 1998: 163.

bill of rights. It considered the establishment of a unitary centralised state essential in order to transform South African society into a non-racial society and to address the legacies of the apartheid state.⁹

As the foregoing shows, ethnic claims have dominated the early transition process. Ethnic mobilisation was notable among members of the Zulu and Afrikaner ethnic community. It is also clear that the major forces that dominated the transition process had divergent conceptions of South African society. This begs the question of the political relevance of ethnicity in post-apartheid South Africa, which is the focus of the next section.

4. The political saliency of ethnicity in post-apartheid South Africa

Discussing the concept of ethnicity and posing claims based on the same is one of the most onerous jobs that any politician in South Africa can ask for. Anyone who wants to analyse ethnicity and champion ethnic identities can easily be mistaken for a neo-Bantustan architect who attempts to reintroduce ‘the ugly past’ under the guise of accommodating diversity. The past, with its dire connotations of ethnicity, has caused ethnic entrepreneurs in South Africa to be looked upon with suspicion. As Maphai aptly points out, “ethnicity seems to have become a euphemism for racism”.¹⁰ The question, however, remains whether ethnicity is a politically relevant divide in post-apartheid South Africa.

Many scholars and politicians, despite the great deal of reluctance to engage in any serious discussion of ethnicity, insisted on the relevance of ethnicity in South Africa. Horowitz was, for example, confident enough to prophesies that ethnicity will become the central question in post-apartheid South African politics.¹¹ Lijphart made similar predictions. For him, the most ‘accurate view of the South African plural society’ is one that views South Africa as a state that is characterised by a multiple division of ethnic groups. When the white domination comes to an end, he predicted,

⁹ Steytler 2005: 316. .

¹⁰ Maphai 1995: 78. .

¹¹ Horowitz 1991.

the black African society of South Africa can be divided into ten ethnic segments and the whites into Afrikaners and English-speakers.¹² This position is also shared by David Welsh who, writing back in 1980, predicted the weakening of black solidarity in the post-apartheid South Africa: “It may very well occur that ethno-linguistic differences among Africans will become politicised”.¹³

Others relied on the experience of heterogeneous countries and similarly argued that South Africa cannot be an exception to the saliency of ethnicity in ethnically plural societies. Giliomee, for instance, argued that “studies of other African societies show the persistence of ethnicity despite the absence of any policy resembling apartheid”.¹⁴ He, supporting his argument with data collected among black people in South Africa, expressed strong doubt about the assumption that the distinctive ethnic identities nurtured by the apartheid government and institutionalised by the homeland policy would ‘promptly fade away’.

Many thus predicted that with the dismantling of apartheid, the common oppression that muted intra-group rivalries among the different ethnic groups in the black community will fade away. The offshoot of this argument is that the architects of post-apartheid South Africa must guard themselves from the wrong assumption that the tensions that exist between black Africans are too insignificant to serve as raw material for ethnic mobilisation. More importantly, however, it suggests that the post apartheid government cannot avoid the entrenchment of ethnic identities in the Constitution. Those who predicted ethnic-mobilisation in post-apartheid South Africa felt vindicated by the major events that unfolded in the early 1990s transition process discussed above. The conflicts confirmed, for them, the prediction that ethnic mobilisation and ethnic conflicts are an inevitable spin-off of the fall of the apartheid system. For some, “[n]ow that the possibility of the end of apartheid is a reality...the ethnic divisions in South Africa will emerge, and we are now seeing the first signs of this fight between the Xhosa and Zulu on the reef”.¹⁵

¹² Lijphart 1989: 22. .

¹³ Welsh 1980: 161.

¹⁴ Giliomee 1991: 66.

¹⁵ As quoted in Guy 84.

Others simply rejected ethnicity as a relevant factor in South Africa. Sparks, writing in 1990, predicted that ideologically defined political bases rather than ethnic power bases will be the rallying point for any power struggle within the black community in the post-apartheid South Africa.¹⁶ A good number of liberal scholars have also considered ‘the structural inequality of wealth, status and power’ and the statutory racial system as the most important divide and not the ethnic diversity that characterises South African society.

It is submitted that the conflicts in the early transition, adduced above to support the emergence of ethnic mobilisation, do not necessarily substantiate the claim that ethnicity is a politically relevant factor in post apartheid South Africa. To begin with, a closer scrutiny would reveal that the categorisation of the conflicts in the early transition period as ethnic conflict between the Xhosas and the Zulus is a mere simplification. The conflict was largely between members of the same ethnic group: ‘Between rural, often, older, Zulus committed to their tribal identity and traditional systems of government, and those younger, township-based Zulus, less strongly tied to ethnic loyalties, who supported the ANC’s demands for modernisation and homogenisation of the South African people’. As some aptly commented, the conflicts were more of a ‘Zulu civil war’. Related to this is also the revelation of the existence of a ‘third force’ behind the conflicts witnessed in the early transition phases. A judicial commission of inquiry revealed that members of security police were involved in engineering the conflicts.¹⁷ The revelation of the “Inkathagate”, as it came to be known, cast doubt on the position that claimed the potential resurgence of ethnic identity in the new South Africa and vindicated the view that the conflicts were not ethnic conflicts *per se*.

The ANC’s overwhelming victory in the general election of 1994 also shows that ethnicity is not the most relevant political divide in South Africa. In as far as the black African communities were concerned, the election results tended to suggest less ethnic divisions.¹⁸ The ANC received its strongest support, 91.6%, from a region

¹⁶ A Sparks *The mind of South Africa* (1990) 391.

¹⁷ Ellmann 1994. See also Manby 1995.

¹⁸ Maphai 1995: 95.

where there are hardly any Xhosa speakers: The Northern Transvaal Region which is composed of Pedis, Shangaans and Vendas. The party garnered 83.3% of the vote in the North Western Regions which is dominated by Tswana-speakers. Likewise, it polled 76.6 and 80.7% of the vote in the Sotho-speaking Orange Free State and the Eastern Transvaal respectively. The latter is home for the Ndebele and Swazi speakers. Despite the fact that the ANC's leadership, as noted above, is dominated by Xhosa speakers, the 1994 elections indicated that the party enjoys a great deal of support across ethnic groups. This left little substance in the claim that the ANC is a 'Xhosa organisation'.

Equally notable is the fact that parties which contested the election on an ethnic ticket performed poorly in the elections. The Luso (Portuguese)-South African Party, representing the approximately 500,000 South Africans of Portuguese ancestry, failed to gain a single seat in Parliament. Similarly, the following ethnic parties were not able to secure significant place in Parliament: the Minority Front Party (Indians in the Kwazulu-Natal region), Dikwankwelta Party of South Africa (Southern Sotho in the Orange Free State), African Democratic Movement (Xhosa in the Eastern Cape) and Ximoko Progressive Party (Shangaan in the Northern Transvaal).¹⁹

The revelation of the "third forces", together with the winning of elections by the ANC across ethnic groups and the poor performance of ethnic parties in the elections confirmed the prediction that 'Blacks will not vote with their tribal feet'. To be precise, however, the voting trend was not entirely ethnically neutral. Voting patterns, to some extent, have also been partly ethnic. This is especially true in KwaZulu-Natal where the IFP received the majority of the votes (i.e. 50.8%), with 83% of the vote coming from the Zulus. Another ethnic-based party is the Freedom Front, Afrikaner-based party, which received 83% of its votes from Afrikaners although it only garnered only 2.7% of the national vote in a country where Afrikaners account for almost 5.5% of the population. More Afrikaners voted for the National Party whose votes, however, came from other population groups as well. Of the 20.39 % of the national vote that the National Party secured, only 30% came from Afrikaners, another 30% from Coloured, 20% English-speaking white and the rest from other

¹⁹ Maphai 1995: 95.

groups.²⁰ Yet these figures suggest that the exceptions to the 'ethnically neutral voting pattern' are limited.

5. The future of provinces and ethnicity

Fast forward to the present and questions regarding the political relevance of ethnicity continue to feature in the debate on the future of provinces. Those in favour of abolishing or reconfiguring provinces are at pains to stress that provinces are becoming instruments for the promotion of ethnicity or, to use the words of African National Congress (ANC) officials, tribalism. Considering the maligned nature of the concept of ethnicity in SA, this, if proved valid, is undeniably the strongest argument that can be invoked against the retention of provinces.

The fear that the provinces facilitate the creation of ethnic identity and the resultant ethnic mobilisation is attributable in part to the relative concentration of ethnic groups in provinces. While overt ethnic considerations might not have been the primary motivation in the creation of the provinces of SA, most of the provinces are nevertheless inhabited by an ethnic group that is numerically dominant. Although almost all ethnic groups are dispersed throughout the nine provinces, (which is usually the case in many other multiethnic states) there is a clear concentration of each ethnic group in a particular province. While pockets of Xhosa speakers can be found in Free State, Northern Cape and Western Cape, it is in the province of Eastern Cape that they have disproportionate concentration. The same applies to Zulu-speakers who are numerically dominant in KwaZulu-Natal despite the fact that they are dispersed throughout the country. In fact, more than two-thirds of the residents of Eastern Cape, KwaZulu-Natal and North West speak a single language. The numerical dominance of the Sotho speakers in Free State cannot be disputed.

The majority of ethnic groups in SA thus have a "mother province" with pockets of their "cousins and nieces" scattered in other provinces. It is only Afrikaners that are dispersed throughout the country without being numerically dominant in any of the nine provinces. Provinces that lack a dominant ethnic group and which can accurately

²⁰ Republic of South Africa 1994 General Election available at <http://www.electionresources.org/za/1994/>, accessed on 03 June 2008.

be characterised as truly heterogeneous are Gauteng and Mpumalanga. The demographics of most of the provinces, argue the "abolitionists", make them potentially amenable to the often emotionally charged and contrived appeals of "ethnic brokers".

There are, however, strong reasons to doubt the validity of this argument. To begin with, the fact that most provinces are dominated by a single ethnic group has not yet given rise to strong exclusive provincial identities. The amenability of the territorial structure to manipulation by ethnic brokers has not yet translated the provinces into bedrocks for advancing demands that are centrifugal in nature. This is demonstrated by the fact that the protests against the decision of the government to transfer certain municipalities to other provinces were not motivated by a provincial identity but rather by concerns related to service delivery. Residents of the Matatiele community applied to the Constitutional Court to protest against their incorporation into Eastern Cape from KwaZulu-Natal. Their protests were largely founded on the widespread perception that KwaZulu-Natal offers better services than Eastern Cape. The same is true about Khutsong municipality, whose residents objected to their transfer from Gauteng, the wealthiest province, to resource-poor North West.

6. Explaining the limited political salience of ethnicity in South Africa

The political saliency of ethnicity is of limited significance in post-apartheid South Africa. Despite the fact that the country's black community is composed of ten ethnic groups, political mobilisation along these ethnic groups is not common. The performance of political parties that sought to mobilise the black population along ethnic lines has been limited. Even the IFP that relied on ethnic sentiments of the Zulu population group has seen its support dwindling as South Africa moves away from the apartheid era. The Afrikaner-based parties have not also been able to convince their community to rally behind programs that promote a 'nationalist Afrikaner' agenda. The potential amenability of the territorial structure of the state to ethnic mobilisation, owing to the relative concentration of each ethnic group in a particular province, has also not given rise to the formation of territorially based ethnic mobilisation. Despite predictions that ethnic rivalries will emerge among the black community when the white domination comes to an end, the solidarity of the black community that, to a

large, extent, has muted inter-ethnic rivalry has persisted into post-apartheid South Africa. In short, ethnicity is still not the most relevant divide in post-apartheid South Africa.

This, some may argue, does not necessarily rule out the argument that relied on comparative observations (i.e. experiences of other ethnically plural societies) and predicted the politicisation of ethnic differences among the black community. It might only mean that it is too early to expect the weakening of black solidarity and the revival of ethnic rivalry in the state of affairs where race and class divides reinforce each other, thus, making the statutorily determined and historically reinforced racial cleavage sharp and very strong.

A more plausible explanation for the gap between the widely held predictions and the actual societal reality lies, however, in the limitations of the arguments based on comparative observations. The argument seems to simply suggest that ethnic divisions will necessarily be reproduced in the political arena. It fails to consider the role of historical and political circumstances in bringing parallelism between social cleavages and political mobilisation. The limited saliency of ethnicity in the South African political discourse can only be explained by the particular historical and political context of the South African state and society. Unlike many other multi-ethnic states, South Africa has not yet experienced an exclusive 'nation-state building' project that empowers a particular ethnic group and marginalises the rest. In fact, the political experience of South Africa was such that it united the different ethnic groups that inhabit the country to forge a common national identity against the apartheid government. At the centre of this struggle are also the ideology of the ANC that regards ethnicity as artificial and the manipulation of ethnicity by the apartheid government which contributed to the maligned concept of ethnicity in South Africa. In post-apartheid South Africa, the limited significance of ethnicity is further facilitated by the absence of ethnic traits in the identity and organisation of the post apartheid state(the absence of a central power that arranges groups in hierarchical relations or imposes the domination of particular ethnic group/s over others). It may not thus be surprising that ethnic mobilisation is rare in a situation where political and historical experiences have resulted in the emergence of solidarity across the ethnic divide and where there is no particular pattern of state-driven ethnic stratification.

The South African experience suggests that ethnicity is not usually a primary rallying point of political mobilisation but often a function of state policies that deny, accommodate or promote ethnic diversity.

The question is whether the constitutional framework of post-apartheid South Africa has accommodated the demands of the different ethnic groups. The next section focuses on the 1996 Constitution of South Africa, with the view to examining its implications for the accommodation of its ethnically diverse population.

7. Recognition and autonomy in the 1996 Constitution

This section focuses on the 1996 Constitution (Hereafter Constitution) and examines how it seeks to manage the tension between national unity and ethnic diversity. It first seeks to determine how the Republic of South Africa views itself, as manifested in the Constitution and other major legislation. Does it recognise its multi-ethnic character or present itself as homogenised society that seeks to transform itself into a nation-state? The section then proceeds to the issue of autonomy and examines the South African constitutional perspective on providing ethnic communities with autonomy to manage their own affairs.

7.1 Recognition of ethnic diversity

The opening paragraph to the preamble of the South African Constitution begins with the homogenisation solution of “We the people of South Africa”. It presents the Constitution as a social contract entered into by South Africans acting in their capacities as individuals, unconstrained by their ethnic or other group allegiances. Far from viewing South Africa as a state divided into different groups, section 1 of the Constitution describes South Africa as ‘*one, sovereign, democratic state*’ (emphasis added). A clear emphasis on the promotion and achievement of national unity is also visible both in the preamble and other parts of the Constitution. The preamble, seeking to achieve national solidarity, identifies “building a united...South Africa” as one of the principal objectives of the Constitution. Section 41 (1) (a) also enjoins all spheres of government and all organs of state to preserve “the national unity and the indivisibility of the Republic”.

Given the political history of South Africa, the preamble's emphasis on national unity should not come as any surprise. The preamble and the various sections of the Constitution that emphasise national cohesion represent a clear break from the previous dispensation that segmented the population into different groups. This, for example, explains why the Constitution needed to explicitly describe South Africa as 'one state', a direct rejection of the bantustanisation of the South African state. That also explains why it eschews the apartheid style identity ascription and the expression of diversity in terms of explicitly identified groups and corresponding territories. The Swiss and Ethiopian model, which, through the preamble to the Constitution (i.e. 'we the people of the cantons' or 'we the nations, nationalities and peoples of Ethiopia'), recognise the division of the population into different territorial groups, is rejected as it would echo the old apartheid dispensation. It is based on this perspective that some considered the emphasis on national unity as the only sensible option in the context of South Africa. Brown commented that "a simple retreat from nationalism into multiplicity, division and difference can be immensely disabling in contexts, such as [South Africa], in which the rebuilding of society requires a common commitment and a shared sense of responsibility".²¹

Many may readily interpret the emphasis on national unity as a reluctance to fully recognise the internal diversity that characterises the South African society. The preamble does not, however, go without acknowledging the multi-ethnic character of South African society, albeit with no reference to territoriality. It explicitly declares that "South Africa belongs to all who live in it, united in their diversity", the catchphrase being 'united in their diversity'. This recognises that South Africa is composed of diverse peoples.

The preamble to the Constitution emphasises national unity and the indissolubility of the state while at the same time recognising the diversity of its population. The Constitution therefore attempts to maintain the difficult balance between unity and the need to recognise diversity. The South African Constitution does not explicitly refer to the different groups that make up the South African society. Its recognition of the

²¹ Brown 2001: 757.

diverse character of the society, however, represents an implicit acknowledgment of the fact that South African society is divided into different groups. The nation-building discourse one often encounters in South Africa also indicates a tacit recognition that South Africa is not a nation, although the emphasis on national unity and nation building might suggest an aspiring nation-state.

The symbolic codes of the South African state reinforce the ‘unity in diversity’ theme adopted by the preamble of the Constitution. The national anthem and the flag of South Africa, for example, represent the recognition of the diverse communities of the country. The recognition of diversity is also evident in the Coat of arms that the country has adopted.

The symbolic role of language is also recognised by the Constitution, which recognises the eleven languages as the official languages of the Republic while at the same time expressing provincial preferences in language usage. The conferring of official status on all eleven languages sends the message that all linguistic groups are regarded equally by the South African Constitution. Symbolically, it reinforces the normative guide set by the preamble that ‘South Africa belongs to all who live in it’. The conferring of official status to all the eleven languages is criticised by some as counterproductive. They argue that this policy is not practically realisable and may eventually result in unilingualism; they consider the policy as an “impractical egalitarianism”.²² This fear is compounded by the fact that the Constitution subjects the equal treatment and use of all eleven languages to a plethora of practical considerations. Although scholars like Alexander concede to the unavailability of the use of such ‘safety clauses’, he strongly warns that clauses, which are “allegedly based on technical and economic grounds, are more usually the perfect loopholes for reducing the principle of equal treatment to mere lip service”.²³ The practice reveals a trend that reinforces the suspicion of the critics of the officialisation of all eleven languages. Despite the multilingual reality that characterises South African society and a Constitution that declares official multilingualism, monolingualism with its

²² Sacks 1997: 683.

²³ Alexander 1998: 16.

promotion of English as the sole language of communication seems to be the emerging trend.²⁴

In conclusion, the South African Constitution portrays a state that seeks to build a common national identity; a state that emphasises national unity. It does not, however, portray a state that aims to promote national unity at the expense of ethnic diversity. With its central theme of unity in diversity, it assures those with 'ethnic anxieties' that it does not aim at conflating all identities into one whole and mould a new common national identity. It rather recognises that subnational identities are an important part of the South African make-up. In the arena of recognition, this is especially visible in the image of the state that the various state symbolic codes portray. They reflect an image of a state that strives to build national unity based on the premise that 'South Africa belongs to all who live in it'. In as much as the Constitution does not portray a state that seeks to suppress ethnic diversity, it does not, however, present a state that actively promotes ethnic diversity. South Africa is not presented as an amalgamation of politically relevant ethnic or national groups. The preamble does not portray a case of different territorial groups coming together to draft the South African Constitution. In so far as ethnic relationships are concerned, South Africa is presented by the Constitution as one state that happens to be composed of eleven linguistic groups. This vision of the state does not officially recognise ethnicity as an organising principle of society.

There are, however, notable discrepancies between the constitutional narration of recognition and actual practice. This, as discussed earlier, is evident in the area of language where monolingualism is the emerging trend despite the constitutional declaration of official multilingualism. This is, however, countervailed by the fact that the emerging dominant language, which is English, is a culturally neutral language except, of course, for the Afrikaners for whom the dominance of English is reminiscent of the 'British cultural hegemony'. A general evaluation of elements of the Constitution that impact on the vision of the state suggests that the different ethnic groups that inhabit the country have received affirmation in the public sphere.

²⁴ The practice of monolingualism has caused an outcry from communities, especially the Afrikaner community.

7.2 Autonomy

It is not sufficient that a state recognizes its ethnic diversity. The acknowledgement of ethnic diversity must be supplemented by institutional principles that give practical effect to this act of recognition. One such institutional principle is the principle of self-rule, also known as autonomy or self-government. The focus of this section is to evaluate how the South African constitutional framework dealt with the issue of sub-national autonomy. The institutional arrangements through which self rule or autonomy finds practical expression include the territorial structure of the state, the division of powers and financial autonomy. The focus here is on the territorial structure of the state.

The making of the final map of nine provinces of South Africa involved the splitting of the provinces that constituted the original Union of South Africa (i.e. Cape, Transvaal, Natal and Orange Free State) and the incorporation of the homelands.²⁵ The Cape Province was partitioned into the Western Cape, Northern Cape, and Eastern Cape, with the latter incorporating the former homelands of the Transkei and Ciskei. The Transvaal was divided into the Northern Province (renamed Limpopo), Gauteng (the Johannesburg-Pretoria-vereniging area) and Eastern Transvaal (renamed Mpumalanga), and its western parts were merged with parts of the northern Cape and the former homeland of the Bophuthatswana to become the province of the North West. Natal became KwaZulu-Natal, and the Orange Free State was simply renamed the Free State.

Many scholars regard the present provincial delimitation as the rejection of ethno-national politics.²⁶ They remark that ‘there is no ethnically contrived pattern’ in the delimitation of the provincial boundaries. This, according to them, is visible in the fact that most of the provinces are heterogeneous. The consideration of ethno-national politics in provincial boundary delimitation, they argue, would have brought quite a different territorial configuration of the state.²⁷

²⁵ Egan and Taylor 2003.

²⁶ Egan and Taylor 2003.

²⁷ Egan and Taylor 2003.

Although it is true that the provinces in South Africa are characterised by heterogeneous population, this should not be overstated. As mentioned earlier, there is a clear concentration of each ethnic group in a particular province. Provinces that lack a dominant ethnic group and which can be characterised as truly heterogeneous are Gauteng and Mpumalanga. This particular territorial structure of South Africa, where most of the provinces are inhabited by a particular ethnic group, has contributed to the participation and representation of ethnic communities in their respective provincial administration. It “has provided ‘regional elites’ with the means for political participation and representation in the leadership structure of their respective provinces, promoting the self-management of communities” (Fessha, 2010). The fact that the Constitution leaves the decision with regard to language usage for the provinces further contributes to the self-management of the communities (s 6 Constitution). In conclusion, it can be argued that the current territorial structure of South Africa has accommodated the different ethnic communities without defining the provincial boundaries, and hence the provinces, in explicit ethnic terms.

The fact that ethnic accommodation has not been explicit and perhaps not even deliberate has assisted in South Africa establishing a polity in which political mobilization is not primarily driven by ethnicity. It has contributed to the absence of the articulation of political and other demands in explicit ethnic terms. In fact, the correlation between ethnicity and provincial identity is not evident. As mentioned earlier, Very recently, residents of some communities in South Africa, for example, protested the decisions of the government to transfer their municipalities to other provinces.⁵⁶. As mentioned earlier, the protests against decisions of governments to transfer certain municipalities to other provinces were vehement but not driven by identity or even the sense of ‘belonging to a particular province’. They were driven by concerns related to service delivery (See Fessha, 2010).

Generally speaking, ethnic considerations might not have played a larger role in the geographical reconfiguration of South Africa. It must, however, be conceded that the present territorial configuration of the state can potentially be used to promote the self-management of most ethnic groups. This also means that the demographics of

most of the provinces make them potentially amenable to the often emotionally charged and contrived appeals of 'ethnic brokers'. As the foregoing discussion indicates, however, the potential amenability of the territorial structure to the manipulation of ethnic brokers has not translated the provinces into bedrocks for advancing demands that are centrifugal in nature. By contrast, the current territorial matrix of the South African state have provided 'regional elites' with the means for political participation and representation in the leadership structure of their respective provinces, promoting the self-management of communities. This is further facilitated by the Constitution that allows regional preferences in language usage.

In conclusion, it can be argued that the current territorial structure of South Africa has given the various ethnic groups a territorial space to manage their own affairs without posing a threat to the territorial integrity of the state. The territorial configuration works to restrain centrifugal tendencies and encourage the presentation of territorially based ethnic/regional demands in a 'centripetal spirit'. Given the current review of provincial boundaries, which is currently underway, the fear is rather that should a decision be taken to abolish provinces, regional elites and others with vested provincial interests will pull out the ethnic card, introducing explicit ethnic mobilisation in the political arena. Take provinces away, and there is a likelihood that ethnic concerns will rise to the surface.

8. Conclusion

The post-apartheid South Africa, compared to other multi-ethnic societies, has a unique advantage in so far as ethnic relationships are concerned. The majority of the populations of South Africa, despite their ethnic diversities, seek to belong to one political unit. The majority of the black community that belong to ten different ethnic groups and whose ethnic identity the apartheid government promoted have refused to champion political parties that invoke ethnic identities. As the increasing incursions of the ANC into the traditionally power bases of the IFP reveals, even among members of the Zulu ethnic group, there is no clear support for those that use ethnicity for political mobilisation. The power base of Afrikaner parties that claimed to promote Afrikaner identity has also diminished over time as they failed to convince their constituency to rally behind a nationalist agenda. The incremental gain of white and

especially Afrikaner voters by the Democratic Alliance (DA), a party with no nationalist agenda, implies the unpopularity of centrifugal demands among Afrikaners. It indicates the decline in support for a separate Afrikanerism. There is thus no single political organisation with a nationalist or separatist agenda that commands significant support from any particular section of the South African society. This provides South Africa with an important ingredient of national cohesion. The issue is how the institutional model adopted by South Africa responds to this social reality. Does it still simply try to build a single national identity or provide adequate recognition and accommodation to the ethnic diversity that characterises the society?

Few general observations can be made with regard to the institutional model that South Africa has adopted in response to the multi-ethnic challenge. First, the Constitution gives recognition to the ethnic diversity that characterises South African society. It has provided for the introduction of projects that signify the recognition of the diverse ethnic groups that inhabit the country. The preamble, the national anthem, the flag and the official recognition of all the eleven languages is indicative of a state that wants to build national unity out of its ethnic diversity. Notwithstanding its emphasis on promoting national unity, the South African approach does not deny or suppress ethnic diversity. An important aspect of the Constitution is also that it refrains from actively promoting ethnic diversity. It does not use ethnicity as a constitutional organising principle of state institutions. It eschews the territorilisation of ethnic differences. In a nutshell, it does not reward political mobilisation along ethnic lines.

Second, territorial autonomy does not figure prominently in the South African multi-sphere government. This is not so much because of the geographical configuration of the state which does not provide for territorial expression to ethnic diversity as it is because of the limited legislative role that provinces are made to assume in the political process. It is important to note that the system still provides room for ethnic accommodation. The provinces play an important role in providing the different ethnic groups representation in the leadership structure of the provinces. In most respects, the door for using the provinces to accommodate ethnic interests is also kept ajar. The open system of provinces allows the latter to serve as a safety net, which,

with some adjustments, can respond to new ethnic challenges. It is also important to note that the seemingly limited role of provinces has not made the latter less significant for political parties that want to capture the provinces.

What becomes clear from this review of the South African constitutional approach is that South Africa has shied away from the policies of both suppressing ethnic identity and actively promoting ethnic diversity. The South African response goes in line with both the political relevance of ethnic identity among the South African society and the general principles pertaining to the accommodation of ethnic diversity. The decision to avoid ethnicity as the explicit principle of political organisation is consistent with the fact that ethnicity in South Africa is still not the most relevant political divide, which warrants an explicit constitutional recognition. The emphasis on shared rule as opposed to self rule is also consistent with the prevailing desire of belonging to one state. On the other hand, the decision not to adopt a policy against ethnic diversity but rather to leave space for ethnic accommodation represents the recognition of the reality that there are groups, albeit numerical minorities, that demand the recognition of their ethnic identities. Moreover, it represents the basic principle that any multi-ethnic country, like South Africa, needs to recognise and be sensitive about ethnic diversity. Generally, the approach adopted in South Africa, which refrains from actively encouraging ethnicity while at the same time falling short of totally shutting down avenues for ethnic accommodation, resonates of a cautious pragmatic approach towards ethnic diversity; an approach that has set South Africa on a pedestal of prevention, the basic aim of which is to protect the mushrooming of conditions that precipitate the emergence and consolidation of strong centrifugal tendencies. In the context of South Africa, where centripetal forces are strong, the decision of the state to manage the emergence of centrifugal tendencies by using the constitutional and legislative framework as a 'preventive tool' seems appropriate.

Of course, as the result of the failure to be consistently directed by the same spirit of accommodation that made the political transition possible, the constitutional representation and commitment is, on occasions, at odds with the political practice. There seems to be a widespread tendency to regard the 'accommodationist elements' of the Constitution as transitory measures. This sentiment seems to partly underlie the current debate about the future of provinces. Accommodationist elements of a

constitution can be used to reach a peace compact and bring together the protagonists. That may make a constitutional arrangement more like what Steytler and Mettler referred to the Interim Constitution as a 'peace treaty'.²⁸ However, an 'accommodative constitution' goes beyond the settlement of conflicts and guides the continuing management and resolution of ethnic conflict in a multi-ethnic society like South Africa. Unlike a peace treaty, accommodationist elements of the constitution should not be transitory in nature. They are built based on the premise that a multi-ethnic society must always ensure that the different groups are provided with the means for autonomy, political participation and representation. Of course, the degrees of autonomy and representation may vary depending on the realities of the society at a particular point in time. With the dynamics of ethnic identity and ethnic relationships, the rules may have to be adjusted here and there. However, the basic principles of recognition and accommodation in a multi-ethnic society and the rules that translate these institutional principles into a reality must, by and large, remain in place. Regarding the provinces as a product of compromise that are no longer relevant reveals a failure to note the important role that provinces play in providing the different ethnic groups a means for political participation, representation and hence self-management.

The disposition to regard the accommodationist elements of the Constitution as temporary measures seems to also partly explain the failure to adequately act on or give effect to the promises of the Constitution. A case in point is the failure of the government to apply the language clause. The constitutionally declared official multilingualism has become a mere lip service to linguistic equality as English becomes the lingua franca of government business and education. The reluctance of the government first to establish and then support the activities of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities reveals the lack of political will to give effect to the constitutional promise of accommodating identity-related concerns. The failure to give practical effect to these and other inclusive elements of the Constitution represents a disquieting departure from the constitutional commitment to build a state that belongs to all who live in it. More importantly, it risks rendering the constitutional recognition

²⁸ Steytler and Mettler 2005: 93.

of ethnic diversity a hollow gesture.

South Africa has to capitalise on the lack of strong centrifugal forces in its endeavor to build a state that 'belongs to all who live in it'. Yet, it must continue to guard itself from the tempting obsession of implementing a nation-building project that is insensitive towards ethnic accommodation. Increasing insensitivities towards issues of ethnicity and ethnic identity might create room for ethnic tension to replace racial division.

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