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A F R I C A N S T U D I E S I N S T I T U T E

African Studies Seminar Paper
to be presented in RW
4.00pm APRIL 1991

Title: Black Councils, White Parliaments, 1920-1987.

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No. 289

Black Councils, White Parliaments, 1920-1987

States under siege do not necessarily use only force to achieve their aims of staying in power. An alternative may be to look back into their historical past and find ways in which they perceive that they have handled similar situations and attempt to use these methods again. The National Council Bill of 1987 comes under the latter category. This Bill contained proposals for the setting up of a multiracial council, a council whose purpose it was to have to discuss constitutional proposals which would lead to a new political dispensation in South Africa.

The last attempt in this direction had failed dismally 36 years previously. What had changed by the mid 1980s to persuade the government to make another attempt in this direction? In September 1984 soldiers were brought into the townships. Black communities were ground down by political thuggery and armed occupation. Labour relations took a knock with many trade union officials in jail or in hiding. The State of Emergency was declared in July 1985. Whites were fearful and had little to feel confident about, 63 United States companies having withdrawn from South Africa by December 1986. Black pupils continued to keep up with their stayaways. It was believed that only negotiations would or could end the violence. The government was urged to "take its courage in both hands and present to the country a just and coherent plan for all groups to live together without domination." The PFP, the Parliamentary Opposition was urging the government to call together the representatives of all the important political groupings to sit down together and try to hammer out a peaceful compromise. The government's answer to this state of affairs, was the planning of yet another national statutory council.[1] The obvious method of achieving the goal of instituting a new political dispensation for South Africa would be through a genuine constituent assembly, one whose members would be elected on an equal and free basis. A constituent assembly that when it has done its work of formulating the new constitution, will then allow the tricameral parliament to dissolve itself and constitute the constituent assembly as the first non-racial and democratic legislature of South Africa. This however, meant that the strategic initiative would no longer be in the hands of government and was thus not acceptable to them.

A national statutory council in this context can be defined as a council formed by the government to ascertain the views of Africans on any matter which the government thought to be of concern to them. The development of this concept can be traced back 67 years to 1920. It was in 1920 that the Native Affairs Act was passed which first made provision for consultation with Blacks on a national level through the provision of Native Conferences. An additional train of thought on the matter was suggested by the Chief Magistrate of the Transkei and later

Secretary of Native Affairs, W.J.G Mears. He put forward the suggestion that the Council concept as observed by him in the Transkei Bunga might be enlarged to represent the whole of South Africa. The Councils that evolved from this idea were to be made up of both elected and co-opted members. Council members would usually also include a certain number of whites, either members of parliament or civil servants. Participation in these councils was always part and parcel of the strategy of the ANC and other important political organisations from the time of their first appearance in 1920. They were regarded by Africans as valuable platforms for communication and an aid in the resistance to segregation.

This paper will examine the development of the Council concept in South African history from Union in 1910 until the publication of the National Council Bill in 1987. The central purpose of this paper is to trace and analyse the evolution of this significant strain of white political thought and why they used this mechanism. Particular emphasis has been placed on the perceptions that white governmental policy makers had of the role of the African urban intellectual as a potentially revolutionary vanguard of the African people, and the formulation of the Council concept as a way to counteract this perceived threat.

Whites were always aware that franchise rights for Africans would inevitably at some future date produce a black majority. In 1910, when the Union of South Africa was formed, only a small part of its black inhabitants had franchise rights. These rights were confined to the Cape and became one of the entrenched clauses in the South African Constitution. It was, however, explicitly stated at the time that this franchise was not to be extended to the rest of the country. There were no other means of ascertaining the views of Africans. Power over those Africans who did not have the franchise was vested in the Department of Native Affairs (NAD).

The creation of a government department to deal specifically with one section of the population was in itself an admission that Africans and there affairs were not to be treated as part of the country as a whole but as something separate. A natural outcome of this attitude was the development of the Department of Native Affairs almost as a government within the government. By 1936 it had its own treasury, its department of agriculture and public works, its own deeds registry and its own department of justice (with jurisdiction in civil matters and divorce, corresponding to the Supreme Court). It was responsible for local government. It had a department of labour, formed as early as 1911 under the Native Labour Regulation Act. It had a social welfare department (mainly for the administration of poor relief and some pension payments). It was also responsible for the collection of taxes.[2]

Another factor that kept African affairs separate was that decisions concerning this section of the population which should have been handled by Parliament, were taken at cabinet level rather than on a broad Parliamentary basis. The South African Party was unwilling to debate openly on African affairs in Parliament. Such matters, the Party maintained, were to be kept out of Parliament and out of white politics. Parliament was, by this reckoning, only for whites. Africans were thus effectively excluded from making their views known on a national level.

By about 1920 the government had realised that the lack of any means of communication and consultation with its unenfranchised African population was making itself felt in increasingly disturbing incidents such as the 1920 black gold miners strike and the riots at Lovedale in 1919. As Richard Selby Msimang pointed out, his people had "no safeguard with which to check reactionary legislation or discriminatory administration."[3]

The ANC had sent a deputation to the Versailles Peace Conference in 1919 and had thereafter had a meeting with the British Prime Minister, Lloyd George, to whom they had conveyed their dissatisfaction with the South African political situation, from which they had been so effectively excluded. Lloyd George had conveyed to Smuts, on an unofficial basis, that he felt something ought to be done about this state of affairs. Both the attendance of the deputation and the meeting with the British Prime Minister had disturbed the South African government, now headed by Smuts. Smuts assured Lloyd George that some kind of consultation would be provided for Africans in the near future. In 1920 the Native Affairs Act was passed.[4] This was the first legislation passed in South Africa which embodied some of the principles of the Council concept.

The Native Affairs Act made provision for the ascertaining of African opinion, on a national level through the convening of Native Conferences. Chiefs, members of the newly formed local and general councils, Africans representing political organisations, in fact any prominent African could be asked to attend these Conferences. Members of the Native Affairs Department were always present. The avowed purpose of the conference was to ascertain African opinion on any matter that the government thought might affect them. The agenda was thus by no means an open one. Notable ANC members like John Dube (past ANC president-general and leader of the Natal ANC), Thomas Mapikela (Orange Free State leader of Congress and ANC conference "Speaker") and R.V. Selope Thema (erstwhile secretary of the ANC and later Transvaal ANC president) were appointed as delegates to a number of these Conferences.[5] Conferences were held annually between 1922 and 1927. One was held in 1930 and regional conferences were held in 1935 to ascertain African views on the proposed Hertzog legislation. The reason why they were not held

after 1927 with the same regularity with which they had been held previously appears to be due to the rise of the Industrial and Commercial Workers Union (ICU).

The Prime Minister, J.M.B. Hertzog and the Leader of the Opposition, J.C. Smuts regarded Kadalie, the leader of the ICU as a "Bolshevik" and an "agitator" and were obviously wary of holding a Native Conference when this movement had such a powerful hold on large areas of the country. Thus from 1927 until 1930 no Native Conferences were held. It appears that the government held that these councils, as exemplified in this instance by the Native Conference, were potentially dangerous. By 1930 the demise of the ICU seemed assured and the last Native Conference was called in that year. The stratagem of not holding a Native Conference in those years in which the ICU was influential, gave the government the impression that although these councils may have certain built-in dangers, by the simple expedient of not calling such a council together such dangers could be averted. So Hertzog retained the idea that consulting African opinion on a national scale had worked out well in practice and that this idea might be extended in the future in the form of a national council of some kind.

The council concept was thus viewed with approval by the government because of its usefulness to the state. It was useful in that it could be used to camouflage the realities of the Africans' political status to the outside world. As has been noted it was first used in this way by Smuts in 1920 after Lloyd George had asked him to consider giving Africans some kind of representation, and from that time onwards it was always used to some extent for this purpose. This was especially the case after 1946 with the formation of the UN. Its main purpose, however, was to understand and react to the views of the African intellectuals and to try to defuse their political ambitions. Thus it attempted to include rather than exclude contentious views, up to a point, of course. It is instructive to note that whereas the ICU posed a real threat to the smooth functioning of such councils, so that none were held in the years when the ICU was the dominant force in African politics, such a situation did not occur in the case of the ANC until 1946.[6]

The Native Conference was a temporary body totally nominated by the government which also had the right to convene it or leave it in abeyance. However, the idea was gradually developing for the formation of a permanent statutory body the majority of whose members would be elected. Hertzog first promulgated this idea in a speech made at Butterworth in 1925, when he said that Africans should get an "institution of a similar kind to our Union Parliament". He wanted Africans to have the authority to legislate for their "own Areas" and to give "an outlet to the urbanised natives who are becoming more and more malcontent and agitators". The only difference originally envisaged by him

between the Native Conference and the Council concept as he saw it, was that the latter would have a "little more power" to elect its representatives. In 1923 Hertzog had commented on a resolution of the ANC, saying that it was clear to him that the Africans wanted direct representation by members of their own race on all legislative bodies and that he feared agitation unless this request was met in some reasonable, manner.[7] It was this fear of dissatisfaction and resultant political destabilization to which all future attempts at the formation of such councils can be traced. The urban African intellectual had been isolated as a danger to white domination and all future attempts at incorporation of this group into the state apparatus at a subsidiary level were aimed at defusing this perceived threat.

A very difficult aim had thus been set by Hertzog for the future formation of such Councils, namely sufficient power to satisfy African aspirations but not enough to interfere with the authority of Parliament. R.V. Selope Thema, then a prominent member of the ANC and later a leader of the Natives Representative Council, regarded this as the flaw in the concept. It was presented to the African people as an authentic attempt at giving them their own Parliament. If they accepted this at face value, they would then continually try to increase the power of this "parliament" and as he pointed out, there could be "no two Parliaments under the same government".[8]

In 1926 Hertzog presented his Union Council Bill, together with his three other Bills, as part of his attempt at getting Parliamentary approval for the abolition of the Cape franchise. The proposed Union Council of 1926 was to consist of 50 members, 35 elected and 15 nominated, for a three year period. An indirect voting procedure was envisaged, with urban Africans voting through representatives designated by the government, while those Africans still regarded as "tribal" would vote through their chiefs. The final say in the election of these 35 Council members would have lain in the hands of a limited number of people including chiefs, all of whom would have been chosen by the government. Although in 1926 the government did not have the power to dismiss chiefs, the passing of the Native Administration Act the following year gave them just this power. Thus it would seem that the envisaged membership of this Council, in spite of the so-called electoral element, would have been totally under the government's control.

The Union Council Bill made provision for laws, binding on Africans only, in respect of such matters which affected them and no other population groups. These laws, however, had to be specifically initiated by Parliament. The Council itself did not have the power to do this.[9] It would thus appear that the real purpose of the Council was not to pass legislation, because if this had been its purpose, there is no reason why it was to be

left to the Union Parliament to initiate it. It could itself have been given this right. What the Union Council was to have been provided with in 1926 was the power of review. Proposed legislation would thus be put before the Council and its reactions noted. The legislation itself would emanate from Parliament. Thus the right of legislation given to this Council was only an apparent right.

Even such a Council, however, was regarded with some unease, not only by Hertzog, but by Smuts as well. The latter pointing out that "A wrong Council may easily become a hotbed for agitation and Bolshevism among the Natives who are at present law-abiding." This is a noteworthy statement because it highlights the uncertainties which lay behind the state's attempts to win over its alienated African urban intellectuals. Even in the case of a Council of this very circumscribed type, where the members were almost sure to have government approval and where their legislative powers would have been so limited, the government still expressed concern as to whether the contemplated vehicle of expression could be manipulated by its members for their own ends.[10] This was a concern voiced particularly by the Department of Native Affairs, which feared that such a council might be used to foster an insurrection against the authority of that department, which would be a more serious result than mere loss of prestige for the government.

Views were also expressed about the dangers of uniting the African people in a Council of this kind. It is difficult to ascertain what kind of unity there was among the African people of South Africa at this time. The group of Africans who belonged to a national organisation such as the ANC was a relatively small one, exact figures being unobtainable. The expansion of the ICU was too brief to provide any guidelines in this direction. However, the prevalent white viewpoint, as expressed in government circles, indicates that they viewed the situation as being one of disunity, a disunity they intended to preserve. A united African nation was a prospect to be feared. As the members of the Native Affairs Commission explained "many outstanding Europeans" held the view that it was dangerous to unite the African people, a view with which the Native Affairs Commission, however, did not concur. It was nevertheless a recurring theme in the Council concept through the years. In 1936, for example, George Heaton Nicholls, of the United Party, stated: "There is .... a choice of two roads before the Union, the road which leads to a Black proletariat and that which leads to a Black nation."[11] An added source of uneasiness as far as white politicians were concerned, was that the formation of a national Council of this type was a departure from the divide and rule policy which had been followed since 1920 and was exemplified by the formation of the General Councils in the Transkei and the Ciskei in that period. As D.F. Malan commented:

> "By the creation of this council we are...going to create a native...nation...which with the passage of time will be more and more united...by this a...nation which does not exist, will be created which will...draw the thoughts of the natives away from the idea that he should develop a local institution in his own area to provide there his need to govern himself."[12]

The most important factor in the 1926-30 period which led to the eventual abandonment of the Council concept was the rise and influence of the ICU. It appears that the idea of a national council of this type was only acceptable to the state at that time if they thought that its proposed members were unlikely to be too problematic.

Thus from 1930 a Joint Select Committee was appointed to study the Hertzog legislation and this Committee tried to find other methods of consultation, without making use of an elected African Council. The first proposal considered was that of George Heaton Nicholls. Nicholls himself stated that the sole purpose of his proposals was to ensure "the security and domination of the white man."[13] Nicholls proposed that African senators be elected to the Senate through am electoral method based on the chiefs. Nicholls held that the choice before white South Africa was that of forming a African nation through the Council concept (which his scheme now did away with) or coping with the vagaries of a African proletariat. He dealt with the problems posed by the latter by ignoring their presence altogether. Nicholls used the Senate as the departure point of his scheme because he reckoned that as the Senate had never been democratically elected, such indirect elections would be in keeping with that body and would pose no threat to the all-white House of Assembly. He wanted the Senators representing Africans to be Africans themselves because then all measures passed by the Senate would automatically be assumed to have African approval. Not surprisingly, Hertzog did not view these ideas of Nicholls favourably. The scheme catered only for Africans in their ethnic units, while the whole point of Hertzog's endeavours in this direction had been to give some satisfaction to the aspirations of the urban African intellectuals whom he regarded as a potential threat to the State. The fall of the ICU had shifted the focus of future insurrection from the rural to the urban areas and it was thought that all future "agitation" would emanate from there. Hertzog was also not in favour of a multiracial Senate. Smuts on the other hand, approved of the removal of the colour bar in the Senate but was dubious of the support of the rest of his South African Party on this issue. In addition he favoured the retention of his Native Affairs Act of 1920.[14]

Smut's attitude to the Council concept is of some note because it was during the period that he was Prime Minister, that is from 1939 until 1948, that the major results of this policy took

place. Smuts himself was very much in favour of segregation. In his historical account of native policy, which he gave in his 1929 Oxford lectures he stated that he was in favour of a policy of differential development or segregation. He held that the highest good in African culture was to be found in the Africans own political system. The policy of differential development would "foster an indigenous native culture or system of cultures..." According to his interpretation, segregation was based on the preservation of African culture and social institutions and was thus part and parcel of the trusteeship clauses of the League of Nations Covenant. The African intellectuals had always conceived of Cape liberalism and the Cape Franchise as a force for assimilation. In the 1920s Smuts and other thinkers, such as Heaton Nicholls attempted to put an opposite view by their attempts to develop a theory that would seem in accord with views of the colonial powers on the governing of Africa.[15]

As neither Hertzog nor Smuts wanted the scheme put forward by Heaton Nicholls, it was dropped in favour of the "Senatorial Grand Committee", a scheme put forward by C.F. Stallard in 1930 and debated upon until 1933. The Senatorial Grand Committee was envisaged as a permanent body which could not only report on proposed legislation from the House of Assembly but could itself propose and submit to parliament any legislation which the committee itself considered necessary in the interests of Africans. In addition no bill could be passed by the Senate and therefore by Parliament until it had been presented to the Grand Committee for consideration and report. In the form envisaged, it would have been more powerful and have had more influence than either the Union Council Bill which preceded it or the Native Representative Council which followed it.

Its electoral element, however, was very limited. It was to have consisted of 26 members, 13 appointed and 13 elected on "tribal" lines. It differed from Nicholls' scheme in that these elections would have been on ethnic rather than geographical divisions. Thus urban Africans would have been included, although presumably swamped by the larger rural numbers. This scheme was opposed by the Department of Native Affairs because of its administrative difficulties. It was regarded as a departure from the administration of local authorities as carried out by the Department in both rural and urban areas under the 1920 and 1923 Acts. In spite of the fact that the urban Africans would be represented in this scheme, Hertzog did not like it because he held that the urban intellectuals would not have sufficient representation on it and it would thus not achieve its intended purpose.[16]

In 1935 Smuts resuscitated the Council concept. The ICU was dead and the ANC moribund and presumably the government no longer felt as threatened by the concept as it had previously. In addition,

the membership of the 1935 council would have included not only Africans but also Senators and Members of the House of Assembly, all of whom would have had voting rights, which would have made it a far less threatening prospect. The proposed Council of 1935 would have numbered 50 members, only African councillors being elected by Africans.[17] This proposal too was not accepted. It might have had awkward repercussions when carried out, if white Parliamentarians and African representatives continually voted on different lines. Africans called to comment on these proposals through the channel of the regional Native Conferences of 1935, criticized the contemplated electoral system because they erroneously felt that it would "prevent the representation of the intelligentsia". The ultimate objectives of the proposed legislation were of course recognized by African intellectuals like Selope Thema who wrote of the Bill:

> "The whole object of the Representation Bill is not to give the Bantu people the right of being represented in Parliament, but to deprive them of the power of the ballot so as to render them incapable of influencing the political life of the country."[18]

The final proposal was that of 1936 and was incorporated in the Natives Representatives Act of that year. The Natives Representatives Council which it created lasted for fourteen years, from 1937 until 1951. It consisted of 22 members, 12 elected and four nominated Africans and six white officials. One of the latter being the Secretary of Native Affairs, who acted as chairman of the Council. The white members of the Council could participate in debates but were not given the right to vote, except for the Council's chairman who could exercise a casting vote. Black members held office for five years. This was the first time since Union that Africans throughout the country were given the chance to elect their fellow Africans to an officially sanctioned body which met annually and had the power to review legislation. It is noteworthy that the electoral vote for the final form which the Council concept took in 1936 was totally loaded in favour of the black urban intellectual. Not only were they given more urban representatives than their numbers warranted, but even the so called rural voting units were comprised in such a way that this vote too, was dominated by the urban blacks.[19]

Although the functions of the Council were only advisory the intention at the time of the passing of the Act was that no legislation could be passed which affected Africans unless it had been discussed by the NRC. The function of the NRC was to discuss and make recommendations on proposed legislation affecting Africans only. F.S. Malan, a relatively liberal Parliamentarian, rightly pointed out that there was not an act passed by Parliament which left the blacks unaffected.[20]

Richard Hobbs Godlo, a leading African intellectual of that time and a member of the NRC from 1937 until its demise held the opinion that although the functions of the Council were only advisory, they were nevertheless fashioned after the "pattern of a Parliament." Newspapers of the time intended for black readership, constantly referred to the NRC as a "Black Parliament" or "Third Chamber of Parliament".[21] Even a cursory glance at the functions and membership of the NRC makes it quite clear that there was little resemblance between it and Parliament. Why then this continual comparison? At the time of its formation an implicit promise appeared to have been given that that the NRC would eventually become a legislative body. Similar councils in the British colonies in Africa were regarded in this way. These councils, although as powerless there as the NRC then was in South Africa, nevertheless held out the promise of being the nucleus of an eventual parliamentary authority.

Indeed, in this context, the NRC was ahead of its time. As Selope Thema pointed out, the Natives Representative Council was unique in the Africa of 1936. No other country in colonial Africa in the 1930's had and advisory council largely composed of Africans elected on the basis of a universal male franchise. Heaton Nicholls, then a member of the Natives Affairs Commission, said in 1938 regarding the Council's functions:

> "At the moment the Natives Representative Council has no legislative authority, and it is in precisely the same position as any Crown Colony Government that you have anywhere...in Africa...It is the nucleus of a native Parliament".[22]

Smuts too, had given the impression that the NRC might reach legislative stature. Even without any legislative authority, such a contemplated Council would still be a permanent elected body of men, representatives of the largest proportion of the country's population and a potential political thorn in the side of parliament. There is evidence that D.L. Smit, Secretary of Native Affairs, tried to divert this political aspect of the Council into social and economic channels by attempting to have it named the Native Welfare Council".[23]

In 1942, the then President of the ANC, A.B. Xuma, was proposing changes which would have made the Council a certain rival of Parliament. Xuma wanted Council membership increased to 100 (the House of Assembly at this time had 153 members), with a black chairman, the venue changed to Cape Town and resolutions introduced into the Council by the Minister of Native Affairs, as was done in Parliament. Finally, he wanted the Council to be given statutory powers.[24]

Three elections were held for the NRC, in 1937, 1942 and 1948 and in 1945 and 1949 there were two by-elections. The men elected to the Council were always proven black leaders, mostly stalwarts of the African National Congress. The NRC contained in its fourteen year existence, three ANC presidents, Albert Lutuli, James Moroka and John Dube; two vice-presidents, George Champion and Z.K. Matthews and ANC heads of all the provinces.[25] There is no doubt that those who were mainly provincial notables at the time of their election (like Albert Lutuli) became national figures due to their Council membership. James Moroka, for example, although treasurer of the All African Convention, was not a prominent black politician before his election to the NRC in 1942. In 1946 he was asked by the NRC caucus to present the adjournment resolution. This gave him an immediate and prominent national standing and was the reason for his choice as ANC president in 1949. There is doubt that the members of the NRC gained in status through their membership of this body.[26]

The Natives Representative Council met from 1937 until 1950. It was abolished in 1951. Its significance lies not so much in the successful achievement of its resolutions (its most important ones, were in fact never achieved) as on the impact it had on the Africans it represented. It was this impact which was initially feared by the formulators of the Council concept. The intention of the Native Representatives Act in 1936 had been to ensure that all relative legislation be placed before the NRC, before proceeding to the House of Assembly. It was this aspect of the Council which made it a part of the Parliamentary process. Theoretically, the progress of a Bill could thus be halted indefinitely if the NRC refused to discuss it. It was on this assumption that in 1946 the brought the following resolution before the government:

> "The Council having, since its inception, brought to the notice of the Government the reactionary nature of Union Native Policy of segregation in all its ramifications, deprecates the government's post-war continuation of a policy of fascism, which is the antithesis of the letter and spirit of the Atlantic Charter and the United Nations Charter.
>
> The Council therefore in protest against this breach of faith towards the African people in particular, and the cause of world freedom in general, resolves to adjourn this Session and calls upon the Government to abolish all discriminatory legislation affecting non-Europeans in this country."[27]

The councillors hoped that their non-collaboration at this stage would result in a stalemate and force the South African government to review its "native policy". This was also initially the view of government. Some legislation was held up

immediately after the NRC adjourned in 1946 in the belief that it could not be passed by Parliament because it had not been examined by the NRC. However, the government managed to find a loophole in the law and no longer found it necessary to consult the NRC.[28] Hertzog had initially feared that the lack of political influence on the legislative process of the country would alienate the intellectuals from the council concept. He conceived of the NRC as being connected to the legislature but having a minimum impact on actual legislation.[29] In practice, however, the wording of the Act was such that the intention of its formulators appeared to be to give the NRC a decisive say in what could and could not be placed before Parliament.[30]

The councillors elected to the NRC were all totally opposed to the government. The NRC thus functioned as a cross between a third chamber of Parliament (which is what it was often called by the Africans) and a parliamentary opposition. Its role as a parliamentary opposition was emphasized by the attitude of the Africans themselves towards it. The NRC successes were not many and it might have been expected that after an initially unsuccessful effort by the NRC to redress grievances, petitions to the Council from its black electorate would have diminished. The opposite happened, Councillors continued to be bombarded with requests, to such an extent that a Council caucus had to be formed in 1943 to sift through these requests and reduce them to manageable levels. This happened because the members of the Council although relatively powerless, were nevertheless the only means available of redressing black grievances.[31]

Council sessions which in 1937 had consisted of one annual meeting lasting two weeks, came to consist of two or three meetings every year, lasting four or more weeks. The councillors lack of success at redressing matters of policy at a national level was similar to that of an opposition party in Parliament. Although the NRC never had sufficient influence to have repressive legislation scrapped altogether, they did manage at times to have certain aspects of it amended. In this its role was similar to that of, for example, the Progressive Party in the 1960's and 1970's.[32] Their membership of the NRC helped them to lead the way in the tactics which groups such as the Congress Youth League later advocated and which were finally adopted in the ANC Programme of Action of 1949. Councillors favoured the use of the boycott and the strike and were moreover favourably disposed towards militant action. These tactics were in fact carried out by the NRC from 1946 onwards. There is some evidence that councillors like George Champion and R.V. Selope Thema hoped that the gold miners' strike would be success and lead to a national strike. They held that this, when taken in conjunction with the NRC's refusal to co-operate with the government would result in a fundamental change in government policy.[33]

After the Council's adjournment in 1946, the NRC had obtained publicity at the United Nations and managed to get Smuts to agree that the "native policy" of the Union was outdated. Although by 1949 nothing had yet materialised vis-a-vis the National Party government and the NRC, councillors hoped that if it could be used in some way to achieve their ultimate objectives. These were after all the same, whether stated by the NRC, ANC or CYL. The one public and two private meetings held by the government in 1950, indicate that the National Party government, in spite of its numerous statements to the contrary and in spite of the fact that apartheid ideology apparently could have no niche within which such a Council could be placed, was unwilling to abandon the NRC entirely. Both Eiselen and Verwoerd in 1950, at the Council's last meeting, made some considerable effort to keep the NRC functioning. They were unsuccessful and in 1951 the Bantu Authorities Act finally put paid to the NRC and to the Council concept for some twenty-six years.[34]

The implementation of the Bantu Authorities Act has been viewed as a logical accompaniment to the states determination to defeat the African nationalist movement and to deny its leadership's claim to represent the Africans. It is significant that this Act did no attempt to ban or in any way curtail the activities of black organisations such as the ANC. It was only that aspect of the African nationalist movement as represented by the NRC which was affected. This implied that the influence of the NRC was seen as a greater threat to the state than that of the ANC or any other black organisation of that time.[35]

Jordan Ngubane, then editor of Inkundla Ya Bantu, an influential newspaper intended for black readers, viewed the meeting of the NRC in 1950 as a turning point in black-white relations, declaring that on it would depend whether the future for blacks would be citizenship by reform or through revolution. Indeed from the time the government abandoned the council concept it also began to systemmatically repress all African leaders and political organisations. In spite of the very flawed nature of this type of consultation, it it clear that in the South African context, it was the only way in which Africans were able to enter the political sphere at all.[36] A feature of the years after the demise of the NRC was not only that the white government had now abandoned any effort to include Africans in the constitutional framework of South Africa, but that the Africans themselves in their own organisations were beginning to abandon democracy as a means to pursue their own ends. The method used by J.B. Marks to secure election as president of the Transvaal ANC, the tactics used by certain members of the ANC Working Committee to ensure the cooperation of ANC leaders, the by-passing of Moroka when he was President-General in the decision making process of Congress, are all indicative of this.

When the NRC adjourned in 1946, various proposals were put forward by the Department of Native Affairs in an attempt to persuade the councillors to cooperate with the state. These were:

1. Giving the NRC a black chairman and administration.

2. The granting of powers of subsidiary legislation for African areas if these met with the approval of the governer-general.

3. The power to impose a tax, which be levied in place of local taxes and would provide for the maintenance of approved local and general council services.

4. The establishment of a Natives Advisory Boards Congress for urban Africans.[37]

These proposals were intended to give Africans increased opportunities of administering their own affairs and a degree of financial control. It was also hoped that by such means the perception of political isolation among black intellectuals might be diminished.

The Native Affairs Commission chairman, Douglas Smit, who had previously chaired the Council itself, hoped to persuade the councillors to accept these proposals by stating that these were only interim measures and would lead to bigger things. The NRC could thus accept them without losing face with the electorate.[38] As has been noted, Eiselen made some attempt to keep it going but when this clearly became impossible, an alternative power structure for these Africans was eventually sought in the concept of the self-governing "Homelands" where a greater semblance of both self-government and independent decision making could be given to these people to deflect their interests from the central power structures which the whites were determined to keep for themselves.

The Apartheid policy did of course have the corollary of the rejection of an institution representative of the whole African community. This dismissal of the Council concept by the National Party in 1948 is somewhat watered down when consideration is given to the attempts by the main ideologues of apartheid to keep the Natives Representative Council functioning until 1950. The election manifesto of the United Party in 1948 quite explicitly proposes the formation of an enlarged Council, first put forward by Smuts in 1947. Smuts wanted local administration linked to the NRC but the fulcrum of his policy was still that of the 1920's Native Affairs Act. As late as 1954 it was stated that the United Party was in favour of the expansion of the functions and usefulness of the NRC, in spite of the fact that by that date

it had been abolished for three years and that it had functioned in such a perfunctory and unsatisfactory manner in the final years of the Smuts administration.[39]

In 1987 proposals were made for the formation of a National Council which would cut across those carefully nurtured ethnic lines cultivated by the proponents of apartheid. Thus for the first time since the Bantu Authorities Act of 1951 dismantled the Natives Representative Council the state again put forward the concept of a National Council. The main test of this National Council was to have been to provide for the participation of all South African citizens in the planning and preparation of of a new constitution. The membership of the proposed National Council was of some interest, displaying as it did a mixture of all the councils discussed, tried or rejected since 1920. As in the case of the NRC, the National Council was to have had 9 elected African members. Additional members of the National Council were to have been the State President, the Chief Minister (or member of cabinet) of each of the Homelands, other cabinet ministers and the chairmen of each of the Ministers Councils. In order to achieve its objective, which was the provision of a new political dispensation for South Africa, the National Council would have made recommendations on both existing and contemplated legislation. All these provisions were reminiscent of the NRC.

The entitled voters were to be blacks who were South African citizens, over eighteen and not "Homeland" residents. "Homeland" residents were provided for by the presence of their respective cabinet representatives on the National Council. These provisions too, were reminiscent of the NRC. The "Homeland" representatives can be equated to the appointed councillors of the NRC. These "Homeland" representatives would presumably have been hamstrung to the same extent, as their renumeration and financial position was also dependent on the goodwill of the governmental authorities represented on the National Council. The government presumably thought that this would to some extent moderate their attitudes.

The electoral method contained certain regulations and restrictions concerning the appointment of electoral agents and the prohibition of opinion polls, flags, loudspeakers and printed matter which leaves one with the impression that the contemplated elections for this National Council would not be as free as could reasonably be expected. It is clear that the National Council as set out in the aforementioned Bill, had close connections with all its predecessors - the Native Conference of 1920, the Union Council Bill of 1926, the Senatorial Grand Committee of 1930, the 1935 Native Council Bill and finally the Natives Representative Council of 1936.

It deviated from these predecessors in only one respect, namely that its function was not only to consider past and future legislature in general, but more specifically, to consider a future constitution for South Africa. It was not, however, given power to make a final decision on a new South African Constitution.[40]

What made government believe in 1986 that this was the right time to resuscitate the Council concept, an idea which had finally been rejected by them 25 years before? One advantage as far as the government was concerned may have lain in the fact that it would draw the leaders of black organisations into a statutory body, where they might be both more easily watched and controlled.[41] Xuma thought that the ultimate purpose of the 1936 legislation was a desire on Hertzog's part to increase white control over Africans through their elected leaders.[42] The benefit of an electoral system which placed these men on Councils increased the certainty that the views they expressed were those of their electorate.[43]

The disadvantages, however, outweigh the advantages. Giving Africans one channel through which to express their political views would have overridden those ethnic boundaries so carefully nurtured by the National Party since 1951. D.F. Malan was afraid that this would lead to the various black leaders resolving their differences and emerging as one nation. This is indeed what happened in 1946.[44] In December 1952 James Moroka, then President-General of the ANC prophetically emphasized that the ultimate aim of substituting the Bantu Authorities Act for the NRC was to divide the Africans and deal with them piecemeal. The major disadvantage to the government was that if the method failed, black leaders and the organisations which they represented would feel that violence was the only other alternative.[45]

The National Council Bill has many elements in common with the councils of former years. Could genuine negotiations have resulted from the formulation of yet another such council?

The answer to this must be sought in the different historical and political context in which the 1987 proposals would have taken place. The background to the Native Conferences was that of Colonial Africa of the 1920s and 1930s when this type of consultation was the most that Africans could expect. The millieu of the NRC was initially one of advancement on anything else found in colonial Africa south of the Sahara, but was outdated by the end of the Second World War. Neither of these councils were expected to lead to any major changes from the viewpoint of the whites who initiated them. It is true that particularly in the case of the NRC, blacks had certain

expectations, expectations which were to prove ephemeral, but the Whites who initiated these Councils expected nothing more from them.

This was crucial difference between the formation of previous Councils and the National Council proposals. It was the whites who hoped that the formation of such a Council would lead to reform. Reform through negotiation, instead of revolution by violence. It is noteworthy that just as the abandonment of the Council concept in 1951 led to the systemmatic repression of all black leaders and organisations, so the 1987 resuscitation of the Council eventually led to the abandonment of repression. The conclusion to be drawn from this is that the concept was used by the state at a time when the rights of its blacks were in a state of flux.

Was this concept, initially used by the South African government to give its blacks the illusion of participation put forward as a vehicle for real reform in 1987? Or as the stopgap measure as was used since 1920? A pretense of negotiation and consultation leading to no real constitutional gains for its black participants. Given the situation in 1987, namely that many of the major political participants, both organisations and individuals were at that time not permitted to take part in such an organisation, it seems unlikely that a satisfactory conclusion to the South African political situation could have been reached through negotiations initiated by these means. It must thus be seen as the last attempt by the white South African government to use a concept by which it had previously tried to hoodwink not only its own black intelligentsia but also to some extent the world at large. The government itself must have realised that this idea, discussed so often since 1920, had outlived its usefulness. It was the last attempt to use what can now be judged to have been merely another outdated stratagem of colonialism. The National Council Bill was never passed.

Footnotes

1. The Star, 5 December 1986; Ibid., 5 January 1986; Ibid., 2 January 1986; Ibid., 1 July 1987.

2. M. Roth, "The Formation of the Natives Representative Council", pp. 8ff.

3. Ibid., pp. 14, 16, 17.

4. B. Willan, Sol Plaatje: A Biography, Solomon Tshekisho Plaatje 1876-1932, pp. 242-245.

5. U.G. 17-27; U.G. 3-34.

6. M. Roth, "The Formation of the Natives Representative Council", pp. 30ff.

7. Cape Times, 1 June 1923; Ibid., 31 August 1925.

8. SC 10-27, p. 173; Political Representation of Africans in the Union of South Africa, p. 31.

9. Smit Papers, 4/47, Union Council Bill.

10. M. Roth, "The Formation of the Natives Representative Council", pp. 34, 38, 41-42.

11. Ibid., p. 38; Debates of the Joint Sitting of Both Houses of Parliament, 2 March 1936, col. 386, G. Heaton Nicholls.

12. Ibid., 1 April 1936, col. 865, D.F. Malan.

13. Hertzog Papers, A32, Box 81, Speech by G. Heaton Nicholls on introducing his proposals to the Joint Select Committee.

14. Smuts Papers, v. 120 (191), J.C. Smuts to M.C. Gillett, 28 February 1930.

15. S. Dubow, "Race, Civilisation and Cultures: the elaboration of the Segregationist Discourse in the inter-war years", S. Marks and S. Trapido, The Politics of Race, Class and Nationality in Twentieth Century South Africa, pp. 71-94.

16. Hertzog Papers, A32, Box 81, 1931, Notes in Committee.

17. M. Roth, "The Formation of the Natives Representative Council", p. 50.

18. R.V. Selope Thema, "The Union Native Policy", African Observer, v. 5, May 1936, pp. 32.

19. M. Roth, "The Formation of the Natives Representative Council", pp. 65-66.

20. Ibid., pp. 54-58, 59.

21. See, for example, Imvo Zabansundu, 11 July 1942; Bantu World, 29 November 1941.

22. Nicholls Papers, KCM 3287, "Some Urgent Problems", by G. Heaton Nicholls, 1938.

23. Hertzog Papers, A32, D.L. Smit to J.B.M. Hertzog, 4 February 1935; M. Roth, "The Formation of the Natives Representative Council", p. 166.

24. Political Representation of Africans in the Union of South Africa, p. 24.

25. T. Karis and G. Carter, From Protest to Challenge, v. 4, pp. 61, 97, 25, 79, 19.

26. M. Roth, "The Natives Representative Council", pp. 565ff.

27. NRC Debates, 15 August 1946, p. 74, J. Moroka.

28. M. Roth, "The Natives Representative Council", p. 568.

29. Hertzog Papers, A32, Box 81, Notes on Select Committee Sittings.

30. The Star, 3 May 1943; M. Roth, "The Natives Representative Council", pp. 241-242.

31. Ibid., pp. 568-569.

32. NRC Debates, 15 August 1946, pp. 42, 54, 72-73.

33. M. Roth, "The Natives Representative Council", pp. 538-546.

34. Ibid., pp. 12-13; C. Bundy, The Rise and Fall of the South African Peasantry, p. 226.

35. Forum, 8 December 1950.

36. M. Roth, "The Natives Representative Council", pp. 575-576; Karis and Carter Microfilm, 2:XM130:96/1, Interview with J. Moroka, 1952.

37. Smuts Papers, 169 (81).

38. See above; The Natives and Coloured People's Policy of the United Party, pamphlet published as part of the 1948 election campaign; Smuts Papers, 265 (20), "The Native Policy of the United Party", by J.C. Smuts.

39. Government Gazette, 10957, no. 38, 2 October 1987, National Council Bill.

40. M. Roth, "The Natives Representative Council", p. 54.

41. Smit Papers, 63/36, P.G.W. Grobler to E.G. Jansen, 6 October 1938.

42. Xuma Papers, ABX 361127c, A.B. Xuma to M. Yergan, 27 November 1936.

43. Debates of the Joint Sittings of Both Houses of Parliament, 1 April 1936, col. 865, D.F. Malan.

44. Karis and Carter, v. 2, pp. 395-396.

45. NRC Debates, 20 August 1945, p. 283.