

Constraints to Democracy and Public Reasoning in the New South Africa
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1. THE CLOSE CONNECTION BETWEEN DEMOCRACY, PUBLIC REASONING AND JUSTICE

In Chapter 15 of Amartya Sen's book, *The Idea of Justice* (2006: 324-326), he explores the way democracy and public reasoning can contribute to justice. In several chapters of his book, he explains, "how central the role of public reasoning is for the understanding of justice." According to him, the recognition of this role of public reasoning "takes us to a connection between the idea of justice and the practice of democracy." He continues:

[I]n contemporary political philosophy the view that democracy is best seen as government by discussion has gained widespread support There is, of course, the older – and more formal – view of democracy which characterizes it mainly in terms of elections and ballots, rather than in the broader perspective of government by discussion. And yet, in contemporary political philosophy, the understanding of democracy has broadened vastly [T]he central issues in a broader understanding of democracy are political participation, dialogue and public interaction. The crucial role of public reasoning in the practice of democracy makes the entire subject of democracy relate closely with the topic that is central to this [i.e. Sen's] work, namely justice. If the demands of justice can be assessed only with the help of public reasoning, and if public reasoning is constitutively related to the idea of democracy, then there is an intimate connection between justice and democracy, with shared discursive features.

I am in total agreement with Sen's broader understanding of democracy and with his conclusion about an intimate connection between justice and democracy. His book makes an invaluable contribution to the theory and the practice of democracy.

South Africa became a constitutional democracy in 1994 after a century of white political dominance and racial capitalism. South Africa's new democracy and the way public reasoning operates are both constrained by typical South African circumstances. Consequently, neither South African democracy nor the manner of public reasoning is conducive to promoting justice to the necessary degree.

2. THE UNIQUENESS OF SOUTH AFRICA

After gold was discovered in 1886 on the Witwatersrand, the British government conducted a bloody war (1899–1902) against the two Boer republics in Southern Africa to gain control of the two republics on behalf of the gold mining companies. In 1910 the British parliament created the Union of South Africa and institutionalised a political system of white (or European) political dominance and an economic system that can be described as one of colonial and racial capitalism. This politico-economic system—also called the apartheid system—remained in place until 1994. At the Peace of Versailles (1919) South Africa was granted dominion status along with Canada, Australia and New Zealand. The Statute of Westminster (1931) established the four dominions as “sovereign independent” states within the British Commonwealth.

The black population groups were not only excluded from ownership and entrepreneurial participation in the politico-economic system of South Africa, but they were also unjustly repressed and exploited. From 1910 until 1970 the proportion of whites (or Europeans) in the total population was less than 20%, but their share of total income was always more than 70%. During the same period Africans constituted almost 70% of the total population, but their share of total income was always less than 20%! From 1910 until 1980 the per capita income of Africans was always less than 10% of the per capita income of whites.

The ANC and other liberation organizations fought a long struggle against the apartheid system in South Africa. These organisations regarded South Africa as an immoral state and as a “colony of a special type.” The arguments of the liberation movements were supported by many countries in the Global South—especially those that had obtained their independence after the Second World War.

Apartheid South Africa succeeded in maintaining its independence and its racist character as long as it received economic and military support from Western countries—especially from Britain and the United States. When these Western countries withdrew their support for apartheid South Africa at the end of the 1980s, the whites had no choice but to enter into negotiations with the liberation organizations about a new politico-economic system for South Africa. These negotiations started in 1990 and ushered in an agreement on a constitutional democracy with universal franchise rights. The first democratic elections took place in 1994 and Nelson Mandela was inaugurated as the first black president of the new South Africa.

3. **THE WEAKNESSES OF SOUTH AFRICA’S NEW DEMOCRACY**

During the early 1990s two sets of negotiations were taking place in South Africa. Negotiations on South Africa’s new political system took place in public between all the white and black political parties. At the same time secret negotiations on South Africa’s future economic system and economic policies were being conducted between a leadership core of the ANC, the white corporate sector and representatives of the American and British governments. These secret negotiations were orchestrated by the Mining Energy Complex (MEC) that played a dominant role in South African economic and political history since the discovery of gold in 1886.¹

¹ Ben Fine *et al.*, (1996: 91) describe the MEC as “a system of accumulation.” They claim that “while conglomerate ownership [in mining and energy] dominates the MEC core industries, control extends to other sectors also. In the South African context, conglomerate power over the economy, reinforced

The secret negotiations reached a climax in November 1993. At that stage South Africa was being governed by the Transitional Executive Council (TEC), which was comprised of eight members of the National Party government and eight members of the ANC leadership core. The TEC decided that South Africa needed a loan of \$850 million from the IMF to help tide the country over its balance of payments difficulties. Before the IMF granted the loan to South Africa, it requested the TEC to sign a document about the economic policy of the future government. This document committed the TEC to the American ideologies of neoliberalism and market fundamentalism. The agreement that was reached on economic policy in November 1993 is regarded as the Elite Compromise on which the new South African dispensation has been based. The Elite Compromise put local and transnational corporations in a powerful position vis-à-vis the still-to-be-elected ANC government. It also made the conditions of the Washington Consensus applicable to South Africa.²

When South Africa became a democratic country in May 1994, the sovereignty of the new government was already “restricted” by the terms on which agreement was reached. The restrictions that were imposed on South Africa put it in the same position as most of the countries in the Global South. Most of these countries in the Global South do not have the economic, financial and bureaucratic ability to participate in the global economy with the same degree of sovereignty as Western countries and some of the larger developing countries. These Southern countries are often deprived of the sovereignty to decide independently on a comprehensive redistribution policy on behalf of the impoverished majority of their inhabitants.

through simultaneous control of the financial sector, is shown potentially to extend to all activities and sub-sectors within the mining, manufacturing and financial activities. This is possibly *unique* to South Africa.”

² Joseph Stiglitz (2002: Chapter 3) describes the Washington Consensus as an ideology: “Fiscal austerity, privatization and market liberalization were the three pillars of Washington Consensus advice throughout the 1980s and 1990s” (p. 53).

The implication of the Elite Compromise of 1993 was that the ANC was empowered to implement policies on behalf of black elite formation, but deprived of the ability to alleviate the abject poverty of the poorer half of the black population, once the conditions of the Washington Consensus were made applicable on South Africa.

We can also identify other weaknesses of South Africa's new constitutional democracy. These weaknesses turned out to be also weaknesses of the ANC government. South Africa's democracy is constrained by the fact that South Africa's population is divided into different racial and ethnic population groups of very unequal sizes. The total population is composed of 80% Africans, 9% Whites, 9% Coloureds and about 2% Asians. With this kind of racial and ethnic inequality in the composition of the electorate, it is unavoidable that the African population group will play a dominant role in any ballot. The danger exists that Africans would be inclined to use their numbers to play too dominant a role for too long a period in South Africa's democratic system. If the dominance of Africans were to continue for too long, it would not be possible for any ballot to call the government effectively to account.

The ANC—with its explicit Africanist agenda—acts as the torchbearer of the African population group. In each of the four elections since 1994 the ANC attained more than 60% of the total votes cast. If it were to happen that the ANC succeeds in winning also (say) the next two or three elections, this would certainly not be conducive to the health and vitality of South Africa's democracy. Many people doubt whether a democracy can operate in a *genuinely* democratic way when there are such great inequalities in the racial and ethnic composition of the electorate as there are in South Africa. South Africa's democratic system indeed faces the danger of what Alexis de Tocqueville called the "tyranny of the majority." This is a very unfortunate state of affairs.

Another weakness of South Africa's democratic system is that it is (once the Washington Consensus was made applicable to it) too powerless to address the very unequal distribution of income between the fifty million inhabitants of the country. These inequalities are indeed so extensive that they introduce almost unbearable tensions into the viability of our democratic system. A democratic

system normally operates best in countries—such as the Scandinavian countries—with an ethnically homogenous population and a relatively equal distribution of income. Given the huge inequalities in South Africa, it is questionable whether our democratic system could *überhaupt* be viable and effective.

As far as the distribution of income of the total population is concerned, in 2008 the top 20% (or 10 million individuals) received 74.7% of total income, while the poorest 50% (or twenty-five million individuals) received only 7.8%. What complicates matters further is that 80% of the whites (or 3.7 million individuals) were among the top 20% of income receivers in 2008, while only 11% of Africans (or 4.4 million individuals), 25% of Coloureds (or 1.1 million individuals), and almost 60% of Asians (or 740,000 individuals) were among the top 20% (Finn et. al., 2009).

The really problematic aspect of South Africa's unequal distribution of income is that 95% of Africans (or 23.7 million individuals) were among the poorest 50% of the population, while 5% Coloureds (or 1.3 million individuals) were among the poorest 50% of the population. The fact that the Gini coefficient increased from 0.66 in 1992 to 0.70 in 2008 is an indication that income has become much more unequally distributed during the “democratic” period (Leibbrandt and Woolard, 2010).

In July 2012 the World Bank published a document on South Africa entitled “Focus of Inequality of Opportunity.” The Bank has developed a Human Opportunity Index (HOI), which it has started applying for the first time. The factor that matters most in the HOI is the “location” in which children are born—especially with respect to access to services such as water, sanitation, electricity, health care and education. While up to 50% of South Africans are trapped in a vicious and self-perpetuating cycle of inequality, the “location” in which more or less 50% of all children are born in South Africa is such that their HOI is shockingly low.

The Constitution (Act 108 of 1996) mentions several social and economic rights—or “welfare rights”—such as the right of access to adequate housing, the right of access to health-care services, sufficient food and water, and social security, etc. But as far as the realization of all these social and economic rights is concerned, the Constitution stipulates that this can be done only “within [the

government's] available resources.” It is unfortunate that the realization of these important social and economic rights has been made dependent on the judgement of technocratically-oriented Ministers of Finance whose spending powers are restricted by the conditions of the Elite Compromise.

South Africa's democratic system is also weakened by the fact that South Africa is a developing country, of which a large part of the population is impoverished and “underdeveloped” to such a degree that many are not capable of making a reflective and considered choice between the different political parties during a general election. We must appreciate that many impoverished people in South Africa are so poor and so “uneducated” that they never have the opportunity (or the luxury) to make a choice between “valuable goods.” They often have only one choice in life and that is how to stay alive. By being too poor to gain experience in making choices, they do not know how to decide which one of the opposing parties in a general election can make the most valuable contribution toward addressing their plight (see Nef and Reiter, 2009: 110). Yet poor people can participate actively in service delivery protests. To participate in these protests is part of the struggle of impoverished people for survival. But to use their vote during an election with the necessary reflection on the multiple issues at stake during an election is another matter. Of the poorest twenty-five million impoverished people in South Africa, almost twenty-four million are Africans. The fact that many do not have any experience in choosing between alternatives makes it likely that they would be inclined to continue voting for the ANC. The results of a democratic election should not be determined by people who are too poor to cast a considered vote.

The fact that about fourteen million people receive grants from the government is most laudable.³ Without these grants their poverty would have been unbearable. But the fact that the grants are paid to them by the ANC government constrains the freedom of the recipients to vote against the ANC. There are allegations against the ANC that, during election campaigns, it threatens recipients of

³ About three million people receive an old-age pension of about \$150 a month and eleven million children younger than fourteen years get a child grant of about \$35 a month.

the social grants that the grants would be taken from them if they vote against the ANC. If these allegations are true, then the situation is highly deplorable.

4. **DEFICIENCIES IN THE PROCESS OF PUBLIC REASONING IN SOUTH AFRICA**

Amartya Sen emphasizes the central role of public reasoning in promoting justice. According to him, democracy is best seen as “government by discussion.” It is not easy to determine what the nature of public discussion is in the new South Africa and what contribution the process of public reasoning is making toward promoting democracy and justice.

A characteristic that hampered the process of public reasoning in apartheid South Africa (1894-1994) was the division of the population into different racial, ethnic and language groups—Whites, Coloureds, Asians and Africans groups. The different groups were compelled by the apartheid regime to live in different “group areas,” while the spatial mobility of black people was restricted by influx control and “pass” laws. Africans were traditionally divided into nine different ethnic groups, each with its own culture and language. The apartheid regime tried to “restore” the original ethnic identities of the different African ethnic groups by giving separate schools and separate “homelands” to each one. A separate education system was created for the different racial, ethnic and language groups. During the final decades of apartheid regime there were fourteen education departments for fourteen different groups that the apartheid regime wanted to be kept separate from each other. All these barriers between population groups very much hampered the process of public reasoning during the apartheid period.

During the struggle against apartheid, the attempts of the apartheid regime to keep the different population groups separate from each other were foiled when the United Democratic Front (UDF) was launched in 1983 as one of the most important anti-apartheid organizations. The UDF was a non-racial (but mainly black) coalition of more than eight hundred civil, church, student, workers and other

organizations (national, regional and local). It became the most important internal civil society organization in the struggle against apartheid. Together with the Congress of South African Trade Unions (COSATU), the UDF formed the Mass Democratic Movement (MDM) against apartheid.

In spite of the fact that the MDM and other civil society organizations played a strategic role in the defeat of apartheid, the ANC abolished the UDF and other civil society organizations in the early 1990s when it was preparing to take over political power. To consolidate its political power, the ANC continues to discourage the formation of civil society organizations. A salient feature of South Africa in the post-apartheid period is that there are not enough watchdog organizations in the private and the public sectors to hold the government—and other institutions in position of power and privilege—accountable to the necessary degree.

As the ANC government remains a captive of corporate dominance and globalism, and as the larger non-government organizations (NGOs) become increasingly involved in service delivery, promising signs are fortunately noticeable of new civil society groups emerging from the ranks of community-based organizations (CBOs). These organizations are responding to the basic needs and the justifiable grievances of the impoverished majority. Unfortunately, they are not numerous enough and also not strong and aggressive enough to restore order, discipline and accountability to government. The process of public reasoning in the new South Africa is, therefore, not as lively or rigorous as it ought to be. Fortunately, there are at least two important exceptions to this situation, i.e. firstly, the active role the media are playing and, secondly, the role that the *Treatment Action Campaign* (TAC) played from 1998 to convince the government to supply the necessary medicine to HIV/AIDS patients.

The media have played an indispensable role since 1994 in uncovering the ANC government's maladministration, its money squandering and its scandals and corruption. Unfortunately, the government has brought the *Protection of Information Bill* (or the "Security Bill") before Parliament that may deprive the media of the critical role they are playing at present. If the bill became law,

journalists could be jailed if they are not prepared to reveal the sources of their reports. Fortunately, the media and several civil societies are fighting the enactment of the bill vehemently.

In 1982 the first case of AIDS in South Africa was reported. On Human Rights Day, December 10, 1998, the *Treatment Action Campaign* (TAC) was launched by HIV-positive activist Zackie Achmat and ten others. The TAC developed into an extraordinarily important organization to mobilize people to campaign for the right to health using a combination of human rights education, HIV treatment, literacy campaigns, demonstrations and litigation. As a result of these campaigns, the TAC was not only able to reduce the price of medicines and prevent hundreds of thousands of HIV-related deaths, but also to force significant additional resources into the health system and toward the poor (Haywood, 2009: 14).

The ambitious HIV/AIDS programme outlined at the start of the Mandela presidency had by the end of his presidency fallen extremely far short of expectations. President Thabo Mbeki was elected President in 1999. He openly held the position that HIV did not cause AIDS. The TAC organised a mass movement early in 2003 to object to the government's general failure to execute a proper response to the AIDS pandemic. As a result of the increased pressure from the TAC and other civil organizations the South African cabinet approved a plan for the universal provision of anti-retrovirals (ARV) in August 2003. This plan was implemented only in 2005. At that stage more than five million South Africans were HIV positive, making South Africa the country with the highest HIV rates in the world. From 2006 several new HIV plans were initiated and launched, but they remained inadequate. It was only in 2009 that the cabinet publicized a commitment to test all children exposed to HIV and to provide all HIV-positive children with ARV treatment.

By the end of 2010 only fifty-five percent of people who needed ARV treatment were receiving it, falling significantly short of the government's goal of eighty percent coverage. On December 1, 2011 a third National Strategic Plan (NSP) on HIV and TB was released for 2012–2016. This plan has resulted in an increase in overall budget allocation for ARV treatment to ensure that its second target

of eighty percent coverage will be reached by 2016. While a diagnosis of being HIV positive used to be understood by many as a death sentence, AIDS is increasingly seen as a treatable and manageable condition.⁴

It is not possible to determine how many people have died of HIV/AIDS and how many lives could have been saved if adequate treatment had been available to them at an earlier date. The illness destroys the immune system of those who are affected, and they eventually die of other illnesses. It is estimated that nearly one million people have died of the pandemic in South Africa, because medicine was not available to them. . The life expectancy of South Africans was about sixty years in 1990. As a consequence of the pandemic it has declined to less than 50 years. The pandemic can be compared with a famine.

Because of the constraints on democracy in South Africa, the highly unequal distribution of income has not been addressed adequately since 1994, and because of the unsatisfactory way that public reasoning operates in the new South Africa, the HIV/AIDS problem was not addressed with the necessary rigor from 1994 until 2009.

Sen is quite adamant "that no major famine has ever occurred in a *functioning democracy* with regular election, opposition parties, basic freedom of speech and a relatively free media" (2009: 342). Perhaps we have reason to describe South Africa's democracy and its public reasoning as *dysfunctioning* or even *non-functioning*. This is apparently also the case in many erstwhile colonies of Western empires in the Global South whose "sovereignty" is seriously "restricted" and whose democracy and public reasoning are also *dysfunctioning*, given the circumstances in which independence was granted to them by the Western empires and given the conditionalities that were made applicable on them by the Washington Consensus. Consequently, both democracy and the level of social justice are at unsatisfactory levels in many countries in the Global South (see Sen, 2009:

⁴A *History of official Government HIV/AIDS Policy in South Africa*: <http://www.sahistory.org/za/print/topic/history-official-government-hiv-aids-policy-south-africa>.

chapters 16 and 17 and Stiglitz, 2002: Chapter 3). Jane Burbank and Frederick Cooper put it as follows:

The end of colonial empires was conflicted and contingent. European empires gave up a sovereignty that was becoming costly and the new founding fathers took over sovereignties that they thought they could entrench. We live with the consequences of these uneven and broken paths out of empire, with the fiction of sovereign equivalence, and with the reality of inequality within and among states (2010: 458).

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