



INNOVATIONS FOR SUCCESSFUL SOCIETIES

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Innovations for Successful Societies, Bobst Center for Peace and Justice
Princeton University, 83 Prospect Avenue, Princeton, New Jersey, 08544, USA
www.princeton.edu/successfulsocieties

SCHER: My name is Daniel Scher. I'm the Associate Director of the Innovations for Successful Societies Project and I'm here with Peter Smith at Parliament in South Africa. Thanks very much for taking time out of your day to meet with me. Would you mind giving a brief introduction of yourself and your involvement with the Inkatha Freedom Party and with the institution?

SMITH: *My involvement goes back to the late '80s. In 1988, I started working with the Party through an affiliated structure. I stayed with the Party from then until now, initially as a researcher and then as a manager of an information center. Then I was a participant in the CODESA (Convention for a Democratic South Africa) talks. I joined Parliament in '94 with the first election and have been there since. It's a fairly substantial period, but plenty have a much longer record than myself, but I have twenty years.*

SCHER: During that moment in South African history, when FW (Frederik Wilhelm) de Klerk unbans the ANC (African National Congress) and the South African Communist Party and some other parties, as somebody who was involved with Inkatha, what did you see as the particular challenges or priorities for your movement at that point in time?

SMITH: *We had always been calling for the release of political prisoners, so that was really a dream come true for everybody, ourselves included. Our call at the time was for all-inclusive constitutional negotiations to commence virtually immediately. But of course, there was a period of disagreement on the form that should take and also on the participants and the ratios of one group to another and also on the status of whatever would come out of it.*

At the end, the product was bit of a compromise, I suppose. You had an interim constitution which came out of a process that we sort of would have been calling for, but then that constitution, itself, resulted in the election of a National Assembly which constituted itself also as a Constitutional Assembly and then drafted a final constitution.

So I think we were happy. We would have been happier with a once-off process where we agreed on a constitution, as opposed to a constitution that would provide a mechanism to create another constitution, partly because the process would end up diluting some of the gains that one had made in the first round. Which is precisely what happened of course, be that as it may.

I think we were pretty fixated on moving to the next phase. But while we were in that process, of course, there were all sorts of things happening in the country that were running in tandem to calls for negotiations and agreements even on beginning the negotiations. I think the particular concern that we had, which was a valid concern, and one that was somewhat problematic, was that although there was a process which was ostensibly a multi-party process when all participants would deliberate on matters, we saw a process in terms which the Nats (Nationalists or members of the National Party) and the ANC, in particular, were seemingly engaged in a parallel process that would, in fact, determine both substantive and procedural matters on a bilateral basis and on the basis of private arrangements. So that also tended to sour the air somewhat.

SCHER: As I mentioned, we're particularly interested in calls for federalism and stronger regional powers and Inkatha was really at the forefront of making these sorts of demands. I was wondering if I could ask you why you saw federalism as being a really viable and suitable solution for a post-apartheid state.

SMITH: *A number of reasons, I suppose. They're institutional reasons in the sense that large countries, geographically large, I mean, with fairly large populations, with some sort of adversity in them, managed their affairs in a federal decentralized manner quite successfully, historically. So if, as we had, if we'd looked at governments around the world, federal models of one kind or another, and of course, the "F" word is a bit problematic as to precisely what you would include within the rubric of federalism, but just loosely, whatever we understood it to be, was a successful model, both amongst the developed first world and even amongst some of the developing worlds. So it wasn't as if it was something that was being sucked out of thin air. It was a proven, tried, tested model that succeeded.*

On the political level, as well, one has to remember that we came out of a really, really divided society. I think there is a recognition of the fact that one of the advantages of federalism over other models is that there is a place in the sun for everyone. So in a sense, it diffuses political power and in diffusing, it is more inclusive. That was a political consideration which I think remained as valid then as it does now.

We also, which I suppose relates to the governments, the first point, but a slightly different one, is that we were very conscious of the fact that a unitary state would tend to be very non-accommodating to alternate policy approaches toward solving problems and that federalism offered the advantage of different regions, states, whatever the sub-national units are, of experimenting and finding the best way forward in terms of addressing our challenges. And that one of the key problems we would have as a country, of course, without the history of governance to address these problems, would be what direction to take at the policy level. So federalism would offer the advantage of different regions being able to pursue different paths and then the country would learn from "best practice" and allow people to make faster progress than the uniform imposition of a model that may or may not be appropriate, simply coming from one political direction.

SCHER: Obviously, Inkatha had a very strong regional base and as a party with a strong regional base, advocating a model that was very suitable for its own particular region. How did you respond to demands that this was just, or accusations that this was really a self-interested strategy and not in the national best interest?

SMITH: *Fortunately, that was easy enough, because we had been consistently pushing this line since the early '70s. If it had suddenly appeared, sucked out of thin air the day before the elections, yes, there may have been some substance to it, but that had always been our line. It was a consistent policy position we had adopted since at least '75, so certainly our leader was advocating that. And as a party we'd always been at a certain basic policy position from day one. That was not a problem.*

I think the problem that we had was less that, although there was an issue. The problem that we had, that was more serious, was that there was an attempt to accuse us rather than being federalist, but to accuse us of being secessionist. So there was a whole propaganda program over a couple of years equating any form of federalism in which the sub-national units had any reasonable degree of autonomy, equating that with secessionist politics. That was very destructive for us because it was quite difficult to counter in the prevailing milieu at the time. That was problematic, because it was not really an honest attempt to engage

with the arguments on their own merits, but rather to try to destroy the argument through attacking the messenger, motivation.

That was pretty destructive and not very helpful because, at the end of the day, I think if one has regard to what came out of the process, both in the interim constitution and the final constitution, what one sees in the outcome of the negotiations process and what one sees in the manner in which the ruling party, in particular, put forward certain positions and certain matters, it seems to me at least and probably to others, that it was a deliberate attempt to anticipate, to counter, a line that we were taking a totally different response to. In other words, if we were advocating strong police powers for the sub-national units, then they'd come in and have no powers for sub-nationals, for the provinces, and make it minimal. If we were advocating this, then they'd make sure that the wording of the positions they put forward, dealt with it. One might even argue, that had we been silent on certain things, the constitution might have been more federal than it is.

What I'm trying to say is that the antipathy towards us from that side and the notions that we were secessionists was born out. I think also in the nature of the text, one almost sees this over reaction to positions that we were putting forward as a means of negating any future possibility that could come about during this. Centralizing is more than they might have even done. But who knows. That's just conjecture. One just got that impression sometimes, as a participant in the process watching how they reacted to things.

SCHER: The shape of the South African states certainly has been shaped by some of these discussions. Looking back, are there any things that you feel particularly proud that you were able to achieve?

SMITH: *Absolutely. Provinces. There would be no provinces without us. We would have had a unitary state with local government. Provinces are a product of the IFP (Inkatha Freedom Party) really having to do some hard core grandstanding, I suppose. I mean we weren't going to get it. The DA (Democratic Alliance) and the others, although the DA had held similar positions, it wasn't prepared to go to the edge. Yes, we had to play hardball, occasionally. I think that the fact that we got provinces is a major achievement.*

If one looks at all the constitutional principles that were part of the interim constitution, those principles had to be carried forward through to the new one, although it's debatable to what extent they were sometimes. But anyway, the content of some of those principles also reflects the very strong negotiating position that we took. Yes, I think there's a lot.

The actual form of state that we have now is not one that we're happy with. It's not adequately federal, but to the extent that it's as federal as it is, I think we can take a large degree of credit for that. We are proud of that.

SCHER: I just wanted to pick up on something that you mentioned. You said the DA, or the DP (Democratic Party) as it was known then, held similar positions and in fact they probably have a similarly long history going back to the PFP (Progressive Federal Party) of advocating federalism and yet they don't seem to have played as big a role as Inkatha in bringing this to the forefront. Could you comment on, I mean I don't mean for you to speculate about motivations of other parties, but one might have expected more support from them than you actually got.

SMITH: *Yes, it's an interesting point, you know. I really wonder sometimes. Look, I think they were sort of playing gentlemanly, Queensbury rules, sort of stuff. They were content simply to table a paper and speak to it and that's it.*

I think we sort of saw it a bit more seriously in respect to the consequences of one group versus another. For us, in fact all through the negotiations, even when we started CODESA, the thing on our agenda, number one, was the form of state. Once you agree on the form of state you can fill in the detail later, but we wanted that basic agreement cemented up front first, as a binding commitment to all. Then from that, we could put some flesh on it. The ANC's approach was exactly the opposite. I think the DA kind of went along with that, pigeonholing things all the time, pigeonhole, pigeonhole, pigeonhole, and, "Let's see what comes out in the end".

We were suspicious of that because we suspected that there was this pre-negotiations deal between the Nats and the ANC, anyway. That kind of dealing behind doors, you know, in smoke filled rooms and things, was continuing and that they would do anything in fact, to preclude such an agreement being reached first, which was, in fact, what happened.

That's why, I suppose, it had to go to the extent it did, before we got an agreement on the provinces. Pretty hardcore stuff. Otherwise we would certainly have ended up with a straight unitary state with local government. It's black and white. Despite the DA, as I say, holding similar views, they would have just gone along with it.

SCHER: You've mentioned a few times that there was a parallel process going on between the Nats and the ANC. I was wondering if you could talk a little bit about that and how it affected your role in the negotiations and what you were able to bring to the table considering that there were all these suspicions that things were being decided behind closed doors.

SMITH: *Bear in mind, I'm not speaking as a senior member of the party. I'm just one of the participants and there were many. I was a backbencher then, a backbencher now. So I don't want to say I'm speaking for the party in any definitive sense. If you want my impressions, one must bear in mind that there had been a long history. No, history is the wrong word. There had been a process, that even kick-started with PW (Peter Wilhelm) Botha, of engagement between the NAT (Nationalist Party) and the ANC, you know, at Dakar onwards. This process was obviously secretive even to the ruling party itself, at the time, the Nats. This was an exercise undertaken by the most senior leadership of the National Party to try to start a process, in response to pressure, sure, but to start some sort of process. In fact, you'll see that in the State of the Nation last week, Zuma (Jacob Zuma) was giving credit to some of those NATs. That process happened, so they developed, I suppose, some sort of understanding. I'm not sure if rapport might be the right word, although sometimes one thinks it was quite close, Ralph May and (Cyril) Ramaphosa, for example, as a duo. They seemed to really hit it off. I think they had decided between themselves that this whole exercise was essentially one between the ANC, as the sole representative of the liberation movement and the National Party, as the sole representative of everybody else. To all intents and purposes, although there would be a public process that was fully inclusive and participatory, in reality, it couldn't be side tracked by people like ourselves, and so they would need to agree on the major milestones and things themselves. Which they did.*

How did it affect us? It affected us in a number of ways, because it affected us in the negotiation process itself, obviously, because if you had that form of collusion and deals being done and they bring it to a table, it's really difficult to undo it.

Beyond that, as part of the parallel process, was the fact that they were making decisions which were not pertinent to the form of state or federalism, but to the process, like how they were dealing with conflicts in the country and agreements on arms and weapons and things of this kind. There were all sorts of Groote-Schuur accords and Pretoria minutes. There's a whole string of these agreements that effectively legitimized things that the ANC and allies were doing and delegitimized what we were doing in defense of ourselves. For example, our guys who were defending themselves against an ANC on slaught, were prohibited from running around with any traditional weapon at all, but the ANC and any arms caches obviously were a no-go, but the ANC's arms caches were never handed in. Never had to be handed in. They had an agreement between themselves, didn't they? "That's fine. We take your word for it you'll stop shooting at us. But no, no, hand your weapons in". [Time 17:57]

That kind of deal—how did it prejudice us? Well, a lot of the prejudice was in the form of public opinion, because a lot of the rhetoric of the era was basically painting us as the evil thugs of South African politics and the knights in shining armor were the other two. It was very difficult for us to combat that. We tried. At the end of the day, I suppose it's fair to say, we lost the propaganda war and that had a direct impact on electoral outcomes because the image of your party is what determines allegiance, in a large part. They were out to demonize us together. Irrespective of the constitutional negotiations, themselves, there was that side to it as well.

SCHER: Inkatha is known for taking hard stands during the negotiations and one might even term it, brinkmanship. Was it this situation that forced you to take these very hard lines in order to have some sort of effect on the outcome?

SMITH: *Look, I'm sure that's part of it. But, again, essentially what we were going through as a country was a one opportunity event, process. You don't do this kind of thing in the normal run of a society that is merrily minding its own business and getting on with life, because it takes a crisis to develop a response to solve these things.*

This was a once sort of opportunity to negotiate the future of this country than to simply say, "Oh well. We'll let Mayor Ramaphosa complete whatever deals they want with Slovo (Joe) and put it on the table and we'll all say, yeah, boss." That wouldn't really end up with a product that was acceptable. So it was necessary in a way, to realize that it was an extraordinary occasion and if we wanted a lasting outcome that would work, and that would prove satisfactory and get the buy-in of everybody, maybe one just had to be a little bit more resolute than one might have been otherwise. But, also, I think to be fair, bear in mind that as a party, our members had been under attack for some years. There had been years of physical onslaught, of people being killed left, right and center. There was a quasi-civil war going on. I don't think that we expected of ourselves to suddenly become meek and mild sheep simply because now we're talking. If you have to defend yourself with guns because you're being shot at all the time, you don't suddenly become a lamb in the negotiations.

At the end of the day, I think it was PAC (Pan Africanist Congress) that made the point, and it's a valid point. Their point was you only get at the negotiation table what you gain in the battlefield, which is why they got nothing. I think, in fact, we

got a lot more out of it than that statement would normally attribute to parties in our situation. We punched beyond our weight, perhaps, to some extent.

SCHER: You've mentioned the violence that was going on at the time, and of course there was a lot of propaganda and misinformation flying around about that. I was wondering if you could just talk a little bit about how that affected the negotiation process.

SMITH: *It resulted in being closed down at one point. That was the whole point. What can I say? The whole thing was such a sham in which accusations were made with absolutely no regard for the truth. The media were willing bedfellows in this whole process. You had a Crossroads situation, but just days before, you had a Zonke'zizwe where events happened that were completely ignored yet one was a retaliation for the other. People came down, they killed a whole lot of Zulu migrants, a couple days later they went back and they clobbered them back and then suddenly the whole negotiation came to a halt because our guys were destabilizing things. All the violence in the trains was attributed to Third Force, but inverted commas, Inkatha. Everything was Inkatha and Third Force. Of course this was a myth. There certainly might have been individuals within the security forces who were working with individual IFP, but the same way they were also working with ANC. They were working with everybody. What their agenda was, God knows. At the end of the day, the victims of all that, in respect of perceptions, were ourselves. Those were not good times.*

SCHER: One of the questions I wanted to ask you was, there was a recent article in Business Day by Tony Leon on the "F" (Federalism) word. He mentioned Inkatha's strong stand during the negotiations, but also how one of the things that was also on Inkatha's agenda was the role of the king. He referred to this issue, now twenty years after the fact, as being somewhat remote and obscure to think that it was of such high importance then. I was wondering if you could just tell me a little bit about why this became such an important issue for you, the representation and the role of the Zulu monarchy.

SMITH: *I'll give a comment, but I think others would give you a better answer. I think it was part of the "form of state" issue. The question arises, are we achieving a republic? At one level we're a hybrid because the constitution allows for provincial constitutions to make provisions which are, in a sense, at odds with normal standard republican form of state. One could make a position for the Zulu monarch, for example. Although, again, that would only be a constitutional position not an executive monarch. But, again, it's something that we were keen to do.*

I think it was part of what the IFP was about then. There's a long history to it and to the role of the party and its leadership in the protection of the rights of traditional leaders.

I think there was also a strong fear that the ANC was so against any form of traditional culture and so on that it would do everything it could to obliterate the entire institution. Certainly, some of the rhetoric before the negotiations was pretty hardcore. So, in a sense, this was a reaction to that.

If one looks at the protection that we actually got in the constitution, it went quite far. Unfortunately, we couldn't quite get it as far as we wanted it to go and so the constitution has not served as the protector of the institution of traditional leadership in the manner that we had hoped it would. The wording was such that,

effectively, legislation could recognize traditional leadership but not really give it the kind of powers that it had. So there has been a process of withering away the role of traditional leaders right from '93 until now. It's an ongoing process.

It's matched, on the other side, by this kind of showmanship stuff where they give them powers. Technically, they give them powers to do things they've always done anyway, but they take away the core substance of governance. So we've lost that one.

That's part of the reason why it was important for us from the beginning. South Africa was a bit of a unique country. I think we saw it institutionally as almost a dual system, Western in one way and African in another. We were trying to craft the institutional arrangements that would recognize that and the King and the kingdom were all part of that process of carving out a special place for what was African in a Western constitution.

SCHER: A question I have about the elections, because until a very late stage, it seemed as if the IFP would not participate and it was about two weeks before that when decision was reversed. I was wondering if, from your perspective, you could comment on why that happened, why the party decided to participate?

SMITH: *I was actually on the election committee at the time and we were told to stop work on preparing for the elections. I remember it was quite interesting. We had an election committee that had been established beforehand and I was serving on that body. And then the instructions came through: Right, that was it. We were out of the elections. Stop. Cease all work, which we did.*

It was a reaction to the way the entire negotiations process had been going. It's exactly what we were saying about these prior agreements between the Nats and the ANC and the way they were dragooning people along and the lack of inclusivity and the pigeonholing things to retrieve later in a way that suited themselves. All this kind of thing.

I think we realized that it was a democratic decision. We could choose to participate or not participate. Nobody forces you to participate in something. You're invited to participate and you choose to do so. So we went as far as we wanted to, we saw the futility in proceeding any further, so we elected not to go any further.

The fact was they responded to it in a particular way and that at the end, there was an agreement to make certain arrangements that would allow us to participate, such as the dual ballot. Of course that was another one of the achievements that we managed to achieve. Obviously, it was a good thing. In hindsight it was a good thing. But we were serious and I suppose they realized we were serious and that's, I think, what you were referring to earlier when you talked about brinkmanship. What ever it was, it achieved a positive outcome.

SCHER: Now if I could just go back to the federal issue, you mentioned that despite being quite proud of the accomplishments of actually having provinces, the shape of the South African state is not all that you would desire. I was wondering if you could talk a little bit about the shortcomings of the state today.

SMITH: *I suppose, you've got to compare what we have constitutionally, with what we wanted, but also compare what we have in reality, with what we have constitutionally, because even now there's a disjuncture between those two. What we wanted, I suppose, was a more classic form of federalism where the*

residual powers were located with the states and the central, national government would have a listed set of functions. We believe the residual powers of the states would result in a far stronger form of federalism, but of course, we got the converse of that. That's one problem.

The second problem is that, having lost that battle, and had a system where the residual powers were with the center and the states, the provinces, had a list of powers, then, okay, let's look at the content of those listed powers, the basket of powers and functions, and see whether they are acceptable. The answer is in some ways yes and some ways no.

Yes, in the sense that we derived a system of overrides and the overrides technically favor the provinces in so far and if there is competing national legislation, it has to satisfy certain criteria before it can override a provincial law. That was a major accomplishment as well. We were very happy with that.

But then, the two problems that arise are the following. The range of functional areas, the powers of the provinces, the functional areas were limited, sometimes very severely. Things like police were so limited to really take it away completely and not even have it there. So some areas which should be strongly located in the sub-national units, were taken away effectively, such as policing.

The other major weakness was that in reality, despite the legislative powers that the provinces were given, they lacked the ability to raise the funds to match those functions. Because all funds were raised nationally and then allocated to provinces in terms of a formula, and because the formula dictated that the vast bulk of the money go to key services, social welfare, education and health, there's virtually nothing left for anything else. Even if you had the legislative power to legislate on a range of other matches, you could pass millions of laws but if you didn't have the budget to implement them, you couldn't raise the money. So it became a bit of a pyrrhic victory in some ways. That's what I was saying. The form is there but the outcome lacked certain things.

I must say the overrides were a major issue in our favor, but then again, it's the second problem that I'm saying is a disjuncture between what we actually had constitutionally, and what provinces do.

The reality is that provinces have far more powers now to do A, B, and C than they're in fact exercising. They're not exercising what they have to the extent that they could. Part of the reason for that is this issue of budget. Because if you legislate for something that requires finances and you haven't got the money, then you've got a bit of a problem.

But, none- the- less, I do feel personally, that the provinces have been tardy, generally, in exercising the kind of legislative functions that they have and they tend to be reactive than proactive and not to take the lead in matters that they could. Now there are exceptions. There are cases of provincial legislation where they've done X, Y, and Z, and it's fine. But by and large, they haven't exercised the scope as much as they could have done.

SCHER: I understand there's currently a move to reevaluate or look at the provinces and there are calls to have them abolished and these sorts of things. What is Inkatha's position on that? How will you respond to the current challenges to the real existence of the provinces?

SMITH: *On one level, we've been fairly consistent in saying that unless provinces have meaningful power then there's no point in their existing. In one way, if, as a result of this review process, provinces are emasculated beyond what they are already, then we may well adopt a view. We haven't yet done so, but we may well adopt the view, "Then, look, why bother? You're just doing this is as just as a pro forma exercise. They bear a name, but they don't have anything substantive to do other than administrative things. Well, just have a governor or something and shut down the provincial legislatures."*

We haven't taken that view yet, partly because the process has been one of government asking a set of questions pertaining both to local government and to provinces and then it has evaluated those responses. This process has been over some three years now and it still hasn't come out with its response to those issues. So we're eagerly awaiting government's response. We don't know what it is.

There are hints here and there of this and that. There's talk, for example, about reviewing the schedules. Now reviewing the schedules could mean weakening the functional areas, diminishing the number of functional areas, or it could mean strengthening. It doesn't necessarily mean weakening. Of course we can be suspicious, as we are, of their motives and what's intended.

But against this, one has to also bear in mind that is one of the things that is not inviolate, but none the less, there's a certain sense that when we won the issue on provinces, it was a crossroads issue where what was achieved, might last into perpetuity or some time into the future, and that's not the kind of thing you can engage, in the normal course of events, for the states' governance. So we thought that once the provinces were created, it would generate a momentum of its own. They assume a life of their own. They're there. Their power base is in the country. Even within the ruling party the powers spread, there were problems with provincial powers. All sorts of things happen and then it becomes very difficult down the road to undo that.

I think this is partly where the ruling party is now. There's a strong component which rues the day that it gave into us on that issue and is now having to try to undo what it doesn't want. And another strong component that says, "No, no. It has nothing to do with the IFP. We've got it. It's good. It's fine. Let's make it work." Now I don't know if/how they resolved it internally themselves, but it hasn't yet reached the level of a formal position being tabled by government. So we don't know what they're saying. They give hints, you know, they want to do this, they want to do that, they want to do the other, but the hints are merely that. I suspect they'll want to weaken the provinces. It seems fairly obvious. But then, you know, they have major challenges also of local government. And the question is, if you weaken the provinces what do you do? Do you take it away from the provinces and give it to local or do you take it away from the provinces and give it to national or what? I spoke to some of the ANC guys who think they should strengthen the provinces, because the local government is the big problem in this country, not the provinces. Local government is screwing up completely. It's a disaster. One of the solutions is to strengthen the capacity of the provincial governments to do their job properly, so things won't go wrong down at the bottom, as much. We don't know.

SCHER: Okay, well. Thank you very much for your time. It's been very interesting and I appreciate it.

SMITH: *My pleasure, Daniel. No problem.*