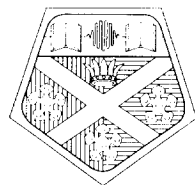


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CIVIL SOCIETY AND ITS LIMITS:

The Case of South Africa

by

Daryl Glaser

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THE CASE OF SOUTH AFRICA**

by

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Introduction

In the early 1990s South African anti-apartheid intellectuals and activists discovered civil society. Like their counterparts in a number of other democratising 'Third World' countries of the last fifteen years, opponents of South Africa's oppressive regime came to invest in the idea of civil society their hopes for a future that would be democratic, participatory and solidaristic. Today commentators of a wide ideological spectrum, both in South Africa and globally, consider the development of an autonomous civil society critical to the successful implantation of democracy in developing countries. For liberals the associational sphere of civil society offers a stabiliser of and counterweight to democratic state power; for many radicals, including South African ones, it is the medium in which new kinds of participatory socialism might flourish.

In this paper I will defend the re-orientation of South African radical discourse towards civil society talk. At the same time, I will argue that many contributors to the South African debate have tried to make the concept do too much. Valuable though civil society is in all sorts of ways, it cannot serve as a substitute for state power or an alternative to effective state democracy or as a new form of non-state direct democracy; still less is it available as a weapon of classes and ideologies. Civil society is not a thing or instrument or collective actor or deliberative forum or even, strictly speaking, a 'watchdog' - in all of which guises it has nevertheless made its appearance in the South African literature. I shall argue for a normative conception of civil society as a kind of empty public space, protected by formal state guarantees of individual liberty and social order, and open to multiple uses by free and equal citizens. This description of the desirable civil society is more radical than may at first appear. I will employ it as a normative yardstick in discussing a number of other, in my view more problematic accounts proffered by South Africa's new civil society champions. This paper illuminates some of the tensions between rival accounts of South African civil society, exploring their implications for post-apartheid democracy and for radical democratic theory generally.

This paper advances a number of specific criticisms of South African civil society literature. Most can be ordered around one (or both) of two complaints. The first is directed against what I shall call *collective actor* and *instrumental* models of civil society. Though non-identical, these two models are joined in imagining a civil society that is purposive: able to pursue a purpose or to be wielded for one. A purposive civil society is necessarily

conceived in more or less unitary terms, even when paraded in pluralist clothing. It can be embodied in supra-partisan civil associations which are understood to mediate or arbitrate between particular interests; it can be harnessed to particular projects (such as socialism and development) by leaderships seeking to construct or represent a civil will; *its* role can be understood as oppositional or complementary (or both) to the ruling party and state. Two dangers attend such models, I shall argue. One is of an authoritarian subsumption of political difference. The other danger lies in an overestimation of what civil society as *dual sovereign* can actually accomplish by way of, for example, building socialism or a self-managed economy.

My second broad kind of complaint is against the privileging of civil society as a site of democracy-building. In much of the writing under discussion state democracy is treated as necessary but essentially limited; the democratic horizons of civil society are, by contrast, treated as wide and expanding. What this contrast neglects or downgrades are the necessary democratic limits - and potential - of both state and society. Though state democracy may often lack participatory depth, it is a necessary guarantor of democratic relations between citizens; moreover it is possible to deepen and extend state democracy through radical institutional innovation. While civil organisations can offer channels for direct participation they may also obstruct democratically mandated state-led programmes, impose activist agendas on disorganized majorities and unleash a bottom-up majority rule lacking safeguards for individual liberty and security. An adequate democratic theory must account for the complexities, and the trade-offs, that characterise the relationship between state and civil democracy. This paper will offer some considerations for such a theory.

The debate about civil society in the South African anti-apartheid camp has been carried out principally in two arenas. The one is the labour movement. Here the transitional constitutional phase that began in 1990 stimulated an extended debate about the possibility of a democratic and socially transformative version of corporatism in the 'new South Africa'.¹ The second arena of debate is the civic movement in the townships. During the early 1990s civic-linked activists increasingly demanded recognition of a vigorous and autonomous civil society in which civics could play a prominent role. It is principally in connection with the civics that the debate about the

¹ Notable contributions to this debate include Vally (1992), Von Holdt (1993), Baskin (1993), Bundy (1993), Harris (1993) and Maree (1993) and Schreiner (1994).

future of 'civil society' arose; indeed, participants in the debate typically treat civics as the leading representatives of civil society.

Towards Civil Society: A Shift of Discourse

By 1991 civil society talk had firmly established itself in the discourse of the South African liberation movement, or at any rate that part of it allied to the African National Congress (ANC). While participants in the controversy around civil society differed on a variety of conceptual and political points, most were joined in emphasising the advantages of an associational sphere more or less autonomous of the state and the ANC. The ANC itself (at any rate outside Natal) signalled its own acceptance of the principle of an autonomous civil society.²

A number of factors appear to have driven this shift of discourse. One factor, a condition rather than cause of it, was the gradual liberalisation of the political language and programme of the ANC and its ally, the South African Communist Party (SACP), over the second half of the 1980s. These organisations had not, until this point, been noteworthy advocates of 'bourgeois' liberties or multi-party democracy. They represented, for the most part, the same marriage of radical nationalism and orthodox Marxism-Leninism found in many Third World and African liberation movements in the Post-War decades.

From around 1986, however, the rhetoric of ANC and SACP elites began to change. The main reason was almost certainly the accumulating evidence of economic stagnation in countries led by orthodox Marxist and radical nationalist movements in Africa and elsewhere; equally if not more important was the specific example of Gorbachev and his *glasnost* and *perestroika* in the USSR. By the time the 'Communist' regimes imploded in 1989, leading ideologues in the ANC/SACP alliance had already begun to move their official politics in a more liberal direction, as evidenced in the ANC's 1988 constitutional guidelines and internal debates about a future Bill of Rights for South Africa. Nevertheless the 1989-1991 events sent out their own shockwaves, duly registered in sections of the liberation movement. The ANC-SACP alliance that began to negotiate with the ruling National Party in

² See for evidence the ANC's *Ready to Govern* (1992), and the ANC's earlier grappling with the issue of civics in its Political Education Discussion Paper no. 3 (1991). See also Botha (1992).

1990 appeared to accept from the outset the principle that, whatever else it might be, the future South Africa would be a liberal democracy.³

Other factors, too, underpinned this liberalisation of liberation movement discourse. The international and domestic power balance meant that the ANC, even if it came to power, would not do so entirely on its own terms; in government it would be dependent on the goodwill of skilled and capital-rich whites, the inherited security forces and civil service, and overseas donors and investors. It would have little choice, therefore, but to accommodate a range of white economic and political actors and, with them, a still intact 'white' civil society of parliamentary parties, newspapers, universities, private schools, businesses, and so on. Equally important, however, was the inherited 'black' civil society of trade unions, civic and youth organisations and rival political groups. Many of these formations were located more or less loosely inside the ANC/SACP camp, and carried with them, especially in the case of unions, a legacy of political assertiveness and organising experience. The assimilation of radical civil associations into the newly unbanned ANC would never have been easy; for an ANC now eager to display its democratic credentials and maintain the unity of its followers during negotiations, it was probably not a serious option.

In fact a range of interests in both the ANC and civil society formations militated against such assimilation. The early 1990s unbanning of political organisations, release of long-term political prisoners and amnesty for ANC exiles added new layers of potential leaders to those who had earned their spurs in more recent struggles in townships, factories, mines and educational institutions. During the interregnum between the end of apartheid and the first free national and local elections, independent civil society organisations provided a political home and outlet for, amongst others, ANC-sympathetic grassroots activists outside of the movement's leadership. Independent platforms in civil society were especially valued by activists who feared that national level negotiations, and any political arrangement emerging from them, would be elitist or ideologically compromised. From their 'Left' perspective, autonomous organisations offered a separate power base from which to monitor or challenge ANC elite deals, win influence for socially

³ The most important post-Stalinist self-criticism to have emerged from the SACP is Slovo (1990). That the 1989 collapse influenced civic thinking is attested to by several influential civic figures (see eg Molefe cited in *New Nation* 17.5 - 23.5.91; Lephunya cited by Collinge in *Work in Progress* 74).

radical goals or create channels for effective rank-and-file participation in politics.

For its part the ANC stood to benefit from the influence and mobilising capacities of civil associations so long as they did not directly invade the ANC's prerogatives, above all in national level negotiations with the government. It suited many in the ANC leadership to have civics move from an explicitly oppositional role to a more developmental one, thus ceding political leadership to the ANC and promising a constructive relationship with a future government led by it. In the same way the supra-partisan stance of civics surrendered party-political tasks to the ANC while drawing a potentially diverse array of interests into formations with historically pro-ANC sympathies.

Tribunes of Civil Society: The Civics

It was the burgeoning of the civic movement in black townships from 1989 which provided the crucial stimulus to South Africa's civil society debate. The Left of the labour movement had long demanded union autonomy from the state and parties, but generally cast its understanding of it in either social democratic or syndicalist terms or envisaged unions as the embryo of a future workers' party able to challenge the ANC on the political scene. Whereas the benefits of union autonomy would accrue primarily to producers at work, civics in theory represented a cross-class coalition of 'collective consumers' straddling the whole of urban space. It was this extended character of this township constituency which gave credence to the civic claim to represent 'communities' or 'civil society'.

Civics originated as local associations campaigning for improvements in township living conditions and opposing municipal bodies foisted on black townships by the apartheid state. They combine a concern with local material issues and broader political grievances, though the balance of emphasis here varies between civics. At least until recently civics have tended to have informal memberships and leaders who communicate with constituents via general meetings. Some of the better organised civics are rooted in branches at block and street level; the least organised may consist in no more than a few activists and a central office.

Swilling offers a useful distinction between *grassroots* civics, which exhibit well developed popular bases and accountable leaders; *populist* civics centred on a dominant charismatic personality rather than organised

grassroots structures; *leadership elite* civics marked by strong leaders and a weak support base and *paper* civics lacking either consistent leadership or coherent organisation. Each of these kinds can be found amongst the hundreds of civics which have sprung up in South Africa's townships over the years.⁴ Observers differ in their overall assessment of the quality of civic organisation. While Swilling and Mayekiso on balance are impressed by their organisational achievement, others, like Seekings, emphasise their unevenness and, with a few exceptions, their weakness and fragility.⁵

Civics have evolved in a complex and discontinuous way since their antecedents first appeared, mainly in African townships, in the late 1970s.⁶ In 1983 many came together under the banner of the United Democratic Front, and civics played a prominent role in the 1984-7 township uprisings until successive states of emergency drove many of them underground. From 1989 dormant civics reappeared and many new ones began to form, sometimes in areas, like African homelands, where they had previously been absent. Swilling has spoken of a 'flowering' of the civic movement from this time.⁷

In March 1992 hundreds of civics joined together in a South African National Civic Organisation (SANCO). SANCO sought to give civics a presence in national level negotiations and redistribute funds from better off to poorer civics, but its centralised character aroused intense controversy amongst some participating civics and grassroots activists.

The political liberalisation from February 1990 opened an entirely new field of opportunities and dangers for civics. Civics' prominence was boosted by a crisis of governability in black townships. By the end of the 1980s rent boycotts had severely narrowed the already constricted fiscal base of apartheid-imposed Black Local Authorities (BLAs). Many of these caved in under popular pressure, leaving a vacuum of authority at the local level. A range of local, regional and indeed central state actors came to recognise that negotiating with credible civic leaders was a prerequisite for obtaining an end to the rent boycotts and, over the longer term, laying the foundations for new non-racial local governments.⁸ At the same time a range of local state and quasi-state bodies, as well as non-governmental organisations, came to view

4 Swilling (1993), pp 23-26.

5 Swilling (1993), p 22; Mayekiso (1993c); Seekings (1992), pp 220, 225.

6 Useful periodisations can be found in Seekings (1992), Swilling (1993) and in the publication *Development and Democracy* (1994).

7 Swilling (1993), p 23.

8 On these developments see Heymans and White (1991), Friedman (1991b), Swilling, Cobbett and Hunter (1991) and Cobbett and Reid (1992).

the co-operation of civics as crucial to the success of local development projects.⁹

These opportunities exposed tactical differences in civic ranks over the wisdom of negotiating with state or establishment bodies, over which organisations and authorities should represent the principal sides in negotiations, and over the scope of issues to be encompassed by the various levels of negotiations. Leading civics had already taken the lead, in the later 1980s, in developing a new style of local negotiation politics. Some civics now felt they could use negotiations to conclude rent boycotts on terms favourable to the masses and, in the longer term, influence municipal government and local development activity in a more 'people-centred' direction. More prosaically, relations with statutory bodies, business and development agencies provided civics with access to money and patronage. Other civics remained suspicious of bodies with state or establishment connections, boycotting them or co-operating with them only on a narrow range of issues. Nevertheless the first half of the 1990s saw a great flourishing of negotiating forums of various kinds, facilitated in some cases by transitional enabling legislation.¹⁰

At the same time the unbanning of the ANC in particular and the prospect, further down the road, of a constitutional transfer of power to an ANC-led democratic government, posed new dilemmas for civic activists. As we have seen, the civics chose, for various reasons, to assert their independence of the ANC, and the ANC reciprocated by affirming the case for civics' autonomy. Nevertheless there remained areas of tension between the civics and the ANC. Newly formed ANC branches competed with civics for local personnel and turf.¹¹ On occasions the ANC worried that SANCO tactics (such as the 1992 rent and bond boycott) would derail national negotiations.¹² Influential ANC Natal activists outrightly opposed civic autonomy.¹³ In the longer run pro-civic observers feared that a new democratic government would draw away funds and activists from non-governmental actors and, by supplying credible partners for development agencies, render civics redundant.¹⁴ The resultant existential anxiety fuelled the civil society debate.

9 On this see Atkinson (1992), Friedman (1993), Heymans (1993) and McCarthy and Bernstein (1994).

10 Debates around these issues can be followed through *Work in Progress* and its *Reconstruct* supplement.

11 See eg Mzwanele Mayekiso (1992a), p 37.

12 See eg *The Sowetan*, 31.7.92.

13 Nzimande and Sikhosana (1992a; 1992b).

14 On this see eg *Reconstruct* no. 14 (1993), p 1 and Shubane (1994).

The Civil Society Debate in South Africa

The civil society debate took place, in effect, at two levels. The one was essentially *practical*, and at this level philosophical positions on civil society are implicit rather than explicit. The practical debate was about the role of civics in the transition to the first democratic elections and then subsequent to it. I have already alluded to some of the tactical debates about negotiations prior to free elections; that debate has now passed into history along with the four year transition period which served as their context. The civil society debate was conducted in large measure in anticipation of the choices that would have to be made in the period *after* free elections (finally held in April 1994), and it is upon these choices I shall focus.

The choices facing civics were of several different kinds. The premise of each option was the existence of democratically elected national, regional and, crucially, local governments, the question then being what, if any, role civics would have in relation to these. Some sceptics doubted they would find any role, since they flourished in the early 1990s in the vacuum created by weakened and illegitimate black local authorities; others, only slightly less pessimistic, suggested they would become one fairly conventional kind of interest group amongst others, perhaps akin to white ratepayers' associations.¹⁵ At the other extreme lay those who wished to see civics serve as local governments themselves - the soviet option - or participate directly in local government elections with their own slates of candidates.¹⁶ Much more common than either of these were positions which envisaged civics serving as one of the following: (1) autonomous 'watchdogs' or advocacy groups on behalf of particular constituencies, typically the working class or poor, or particular programmatic goals, such as participatory local government or some form of socialism; (2) people-centred development organisations, either themselves becoming project-implementing non-governmental organizations (NGOs) or initiating and monitoring NGOs and projects; or as (3) local assemblies or forums bringing together diverse township interests and either acting in some kind of institutionalised partnership with local government or requiring to be consulted by it prior to implementation of policies or programmes.¹⁷

¹⁵ See eg Seekings (1992), pp235-6 and Shubane (1992b), pp 23-4.

¹⁶ Swilling (1994), p 25, refers to discussions of this 'soviet' option.

¹⁷ Extensive reviews of the debate about future civic roles are offered by Shubane (1992b), Swilling (1993), Heymans (1994), Christianson and Ndukwana (1994) and McCarthy and

This debate was framed by some widely shared assumptions. In general, as we have seen, civics favoured a significant degree of autonomy from a future democratic state. At the same time most civic advocates envisaged a more constructive, less openly oppositional role than in the past: while it might be necessary to challenge the ANC, few advocated an openly confrontational stance towards it. With a few exceptions civic ideologues post-1990 came to favour a non-partisan or supra-partisan approach - one which would open civic ranks to representatives of diverse political tendencies - while keeping open the possibility of tactical alliances with particular political parties. These assumptions underlay what might be called the civic orthodoxy of the early and mid 1990s.¹⁸

Beyond this practical discussion of the civics' role, but directly relevant to it, ensued a more *theoretical* debate about the future of civil society, conducted mainly amongst civic activists and sympathetic academics based in universities and oppositional 'service' organizations. This debate was in effect about the deeper justification of the autonomy of the civics. Two contributors stand out for their efforts to link the civic associations and civil society to the broader concerns of radical democratic theory: Mark Swilling¹⁹ and Mzwanele Mayekiso²⁰. Their work will get special attention here.

Like other radical civil society writers, Swilling's vision of 'associational socialism' pictures a civil society of strong voluntary associations. These associations should be capable at once of self-government and of negotiating with the state, business and other power holders on behalf of their constituents. In addition to forming strong horizontal relationships with each other, associations should enter tripartite relationships with capital and a much strengthened local government. Private economic power would need to be replaced by new forms of non-state collective ownership or else subjected to democratic regulation. Political power should be divided and decentralised. Politics must be refocused on the local, since it is here that associational life is strongest. Both 'individual' and 'collective' rights including, in the latter case, 'socio-economic entitlements', must be guaranteed. When in government democratic socialists should use the state to

Bernstein. Contributions by prominent civic activists include Coovadia (1991) and Mzwanele Mayekiso (1993a) while Botha (1992) offers an ANC perspective.

18 For two of many statements of this orthodoxy, see the interviews with SANCO presidents Moses Mayekiso in *Reconstruct* 3 (1992) and Lechesa Tsenoli, in *Development and Democracy* (1994).

19 Swilling's major contribution to the civil society debate is Swilling (1992).

20 Mzwanele Mayekiso (1992a; 1992b; 1993a; 1993b).

bolster civil associations through fiscal measures and a supportive legal framework.

Mayekiso offers in place of Swilling's associational socialism the vision of a 'working class civil society'. Mayekiso sees civil society very much in class terms: it is a terrain of struggle over, amongst other things, its class character. Civil society may have bourgeois origins but it does not necessarily serve accumulation. While Mayekiso rejects the idea that any class can 'own' civil society, he does seek a civil society 'biased' towards the working class. A prominent former civic activist, Mayekiso appears to regard organisations like civics as a potential bastion of socialism in circumstances where an ANC-led government is pulled in a reformist direction. Interestingly, he expresses the hope that worker owned and managed enterprises and development institutions in civil society might form the embryo of a new (socialist) mode of production. Mayekiso's vision gives theoretical form to the aspirations of many of the trade unionists, and also SACP activists, who joined the civic movement from the later 1980s onwards.

Critique

Acceptance of the value of an autonomous civil society by South Africa's anti-apartheid opposition constitutes a remarkable democratic advance, the more so given the authoritarian history of nationalist or Communist 'liberation' politics elsewhere in Africa. I share the view that a densely organised and independent associational sphere is necessary for a viable democracy. It provides a counterweight to the concentration of power; it supplies a context in which political institutions can be scrutinised and challenged; it offers a medium of popular political participation and training; and it enlarges the space available to self-directed human activity. The question is whether South African writers have developed an adequate description of the kind of civil society which might bring with it these benefits. There are, in my view, two principal problem areas in the Swilling and Mayekiso accounts which echo others found in the civic orthodoxy more generally. The first is the conceptualisation of civil society itself. Here I shall begin with Swilling.

There is a tension at the core of Swilling's description of civil society. On the one hand this writer emphasises the pluralistic diversity of civil association. While he does not specify the boundaries of the civil domain, it appears, in his account, to encompass not only associations of the public sphere but also those formed around, for example, family, leisure activities and

property ownership.²¹ At the same time, however, Swilling seems to picture a civil society whose organisational life is constituted by one particular kind of association - grassroots movements and agencies which both represent and govern particular social constituencies. These organisations are non-capitalist and indeed would expect to enjoy the support of socialists in government.²² Despite their supposed diversity, they are party to the privileged narrative of associational socialism. In reality, however, civil societies are zones where countless narratives or scripts intersect: their group actors live out distinguishable stories, each framed by particular conceptions of beginning and end. Not all of these actors will be the kinds of social movements Swilling describes, and not all of them will be benign. Some will be internally authoritarian, or pursue collective goals inimical to socialism. It cannot be otherwise in a civil society that is protected by rights Swilling upholds.

This ambiguity in Swilling's approach leaves him vulnerable to the kinds of broadside launched by Steve Friedman.²³ Friedman correctly understands Swilling, like some other civic champions, to be picturing a civil society of civic-like social movements. Friedman suggests that this commitment to civic autonomy may not be what it seems. Given that, in his view, the civics are ANC-aligned, he contends that civic associations may well be vehicles for extending ANC hegemony outside a future state into the sphere of voluntary association. The civics' claim to non-partisanship he interprets as dissimulation aimed at drawing rival forces under an ANC umbrella. While civics may exhibit some genuine independence from the ANC, any opposition coming from them will be internal to a single movement; the movement led by the ANC will contain the state-civil society divide within itself. Friedman detects here a Gramscianism where civil society is valued less as a field of genuinely pluralistic interplay than as a terrain of struggle for hegemony.

In imagining so sophisticated a plot, Friedman is probably overstating his case. While there is no gainsaying the overlap of personnel and programme, as well as of history and sympathies, between the ANC and civics, it would be wrong to view the civics as malleable instruments of ANC purpose. If we take as given their mainly pro-ANC allegiance, what becomes remarkable is the extent of civics' assertiveness and their sense of separate identity. Still, it remains the case that some of the literature discussed here

21 Swilling (1992), p 81.

22 *ibid*, pp 78-9, 82.

23 Friedman (1991a; 1992).

uses the term civil society as, in effect, coded language for *de facto* largely ANC-aligned radical social movements, and that this stands uneasily alongside the commitment to political and civil pluralism. So too does the ambition of some civic activists, more or less sincerely proclaimed, to develop civics as supra-partisan bodies able to represent entire 'communities', or as forums within which the diverse interests of a 'community' can be accommodated and expressed. These models picture civics as privileged, even officially licensed, sites of interest aggregation within society. They expect civics to accomplish a transcendence of politics as usual. In practice supra-partisanship is unlikely to transcend civil politics: it can only participate in it. This is so for two reasons.

Firstly there is unlikely to be agreement about which originally political formation should provide the nucleus of a supra-partisan forum. It is only natural that non-ANC political organisations should suspect the hidden agendas described by Friedman, since they are being invited into associations pre-formed by ANC-sympathisers. Many associations lack clearly defined rules of internal democratic competition. The very ethic of non-partisanship may discourage open challenge of the ANC, thus in effect co-opting participants into an ANC-friendly consensus.

In any reasonable-sized 'community' there is bound, secondly, to be a substantial diversity of (perceived) interests. Where this is the case it is likely that some (often more easily organisable) interests will be better represented than others in civics, or that interest differences will generate rival associations. It is widely observed, for example, that radical civics tend to over-represent those living in formal housing rather than back yard shacks, shack settlements or migrant hostels, and that these latter often form their own, more conservative civic associations, as do residents in newer or more affluent housing developments.²⁴ If 'communities' are differentiated, so too is the larger civil society which they are presumed to compose. The civic movement is fragmented by boundaries of race and space inherited from apartheid: radical civics are concentrated overwhelmingly in African townships, with white, coloured and Indian areas lacking civics, forming conservative civics, or setting up separate radical civics.²⁵

Of course the democratic importance and legitimacy of civil society groupings is in no sense dependent on their capacity to represent entire 'communities', let alone civil society at large. It is enough that they should

²⁴ See Shubane (1992), Seekings (1992) and Friedman (1993).

²⁵ See for evidence the Cato Manor and CAHAC case studies in *Development and Democracy* (1994).

represent a particular set of legitimate interests amongst a plurality of competing interests. To understand their role in this more modest way is not to consign them to narrowly sectional status. Civil associations could in principle bring together a substantial coalition of interests or achieve wide popular support. They might serve as tribunes of poor and marginalised minorities unable to find effective voice in the conventional pressure group process.²⁶ What they cannot do is abolish interest group politics as such, or cease to be part of it.

The question of who civics do represent has been much gone over in the critical literature. Civic leaders are not the elected delegates of particular populations or even of organisational members. Nor are they necessarily microcosmically representative, in the sense of being *like* those they represent. They are overwhelmingly male and, though cross-class in composition, are drawn *disproportionately* from the ranks of professionals (including professional activists) and white collar workers.²⁷ Civics are moreover dominated by committed activists who draw on relatively narrow pools of politicised supporters, located in turn within larger but variable catchments of passive sympathy.²⁸

If a civic association is representative it is because it enjoys the support or trust of those it represents; and if things like support and trust are difficult to gauge, this indeterminacy is acceptable as long as representative associations are genuinely voluntary and do not have the capacity either to make decisions which bind non-members or permanently to frustrate democratic, rights-respecting decisions made by elected representatives. Civic associations depend for their influence on what some term *demonstrable* support: a capacity to bring out large numbers in demonstrations, strikes or boycotts, to control these and, where they so choose, to call them off. Mobilisation of supporters can communicate intensities of feeling and commitment not always conveyed by the voting process. It supplies often urgent information - about, for example, legitimate unmet needs - to governments and voters at large. How much demonstrable support civics in South Africa actually *do* enjoy is a debated question: clearly they have found it easier to initiate than conclude

²⁶ Certainly some civic activists aspire to this role. See for examples the interview with Mdakane in *Reconstruct* (1992), p 7 and with Tsenoli in *Development and Democracy* (1994), p 34.

²⁷ According to Seekings (1992), p 226.

²⁸ Seekings (1992), pp 229.

protest actions. But there is enough evidence that they enjoy a significant measure of it.²⁹

The larger distinction I am underlining here is between enjoying support in civil society and attempting in some sense to embody or personify it. Civil society is the setting in which rival groups compete for supporters. It has no essential relationship with a particular group or project, even one that seeks to elevate itself above partisan rivalry. A voluntary association may command majority support, but civil society cannot organise all of itself around the project of that group, since it lacks the characteristics - subjective will, unified agency, sovereignty over its parts - of a collective actor. The coherence of its constituent wills around particular projects is rarely complete or stable.

What of Mayekiso's 'working class civil society'? Much here depends on the meaning Mayekiso imputes to the term: a meaning he never clarifies.

What would certainly be problematic is a class reductionist view of civil society in which the democratic value of institutions is assessed solely in class terms and civil society comes to be valued exclusively as an instrument or vehicle of class purpose. Reductionism of this kind does not esteem civil society as a refuge from state dominance, as a sphere of individual and group autonomy, or as a site of free pluralist interplay. Historically it has conspired with forms of politics which have crushed supposedly 'bourgeois' liberties. On the face of it Mayekiso is insisting on a more libertarian kind of socialism: he champions working class self-organisation and hegemony in civil society rather than repressive use of state power against class enemies. Nevertheless a discourse that does not clearly endorse pluralism and formal liberty as goods is always, in the end, available for repressive use, whether by politicians or by civil actors employing informal coercion against allegedly 'bourgeois' rivals.

Equally insupportable would be a civil society whose autonomous life is enjoyed exclusively by the working class and its allies. This would be the equivalent in civil life of a class-restricted proletarian franchise in the state, and would come up against many of the same objections. Its subtextual justification is that the working class, though at present only one part of

²⁹ Some attribute a part of civics' demonstrable support to their use of intimidation, especially for enforcing rent boycotts or stayaways. This is undoubtedly a factor, but so must be the conditional sympathy of large sections of a generally pro-ANC African residential population. If intimidation were sufficient to enable civics always to get their way it would become more difficult to explain their inability to deliver townships to rent payment agreements. In any case it is likely that a lot of intimidating is carried out by youth beyond the direct control of civic leaders.

society, is also the universal class - the collective agent for liberation of all human beings and the class which will end class division as such. A civil society restricted at present to the proletariat and its organisations might be seen, in these terms, to prefigure a future universal civil society open to all on genuinely equal terms. Class sectionalism becomes the instrument of universal, class-transcending purpose.

The deep problem with this account is that it opens the way, over a very long transitional period during which classes persist, to a degree of controversy and coercion incompatible with any vision of civil pluralism. If individuals of bourgeois background were barred from participation in civil organizations, the proportion of the population excluded would be minimal and the whole idea of working class civil society would become gestural. The exclusion of wider social layers - say, professionals, technocrats, middle managers or small traders - would be certain to generate large-scale popular alienation, the constant and arbitrary redrawing of sociological boundaries, and the divisive rending of 'communities' and households. If boundaries were drawn ideologically, so that all friends of the working class were deemed to be entitled to autonomous association membership, the consequences would be just as serious: powerful political actors would have at their disposal exactly the tool they needed to suppress any association, proletarian or otherwise, which failed to conform to their own understanding of the correct ideological path - or which threatened their own position of leadership. And whatever the chosen basis of exclusion, civil society cannot police its class boundaries unless some component of it begins acting like a (rather tyrannical) state.

On the other hand the idea of working class civil society could entail the more obviously legitimate project of seeking effective working class self-organisation. Whether the working class is a universal class or sectional interest, in a civil society of free equals its members are certainly entitled to exercise the freedom of association that belongs to all citizens by right. Moreover, they are entitled to organise to promote their own perceived interests and to exercise a range of other democratic rights - such as the right to strike - in order to advance them. If Mayekiso's project is about extending such self-organisation from the workplace to residential areas, and in the process organising the working class into civics or mobilising civics behind socialist goals, this must be counted equally legitimate. Here working class civil society describes not a civil society exclusive to the working class, but *that part* of civil society made up by the organisations of the working class: it describes movements and subcultures within civil society, not a type of civil

society. A civil society 'biased' to the working class might then be one from whose diverse actors pro-labour movements win an uncoerced and conditional support. Any working class movement worth its salt would seek that.

It might seek something else too, equally defensible: the redistribution of wealth and the abolition of capitalist power. All irrespective of current class background should be free to form and join civil associations; it does not follow that citizens are entitled to unconstrained capital accumulation. Here we get into difficult territory. If civil autonomy is good, why should capital not be counted as one legitimate civil interest amongst others, entitled to protection? Would redistribution - confiscating the capital of some citizens and transferring it to others - not violate the autonomy of citizens?

These questions are too complex to be settled here. It does seem, though, that my own normative definition of civil society offers some warrant for redistribution and the dismantling of capitalist power. I have said that civil society is an indeterminate space, open to multiple use by free and equal citizens; I shall add here that it is a space framed by binding laws and rules which must be made by elected representatives and respect the legitimate, autonomy-protective rights of citizens. A free market liberal might endorse this definition on the understanding that the freedom of citizens includes the right to own and dispose of property and that equality refers only to formal legal and political equality. There are, however, no reasons inherent in my normative definition why a different account of freedom and equality should not be offered; and two positive reasons why one should.

In the first place, it could be argued, along with writers like Dahl and Bowles and Gintis³⁰, that the principles of elective democracy should apply to any large and not truly voluntary institution whose members are subject to binding decisions, even if this requires trumping a particular right inhering in private property - such as the right to command freely purchased labour. The right of employees to workplace democracy enjoys priority, in this weighting, over the right of capitalists to unconstrained deployment of property; or, put differently, the enterprise is here counted into the realm of public or state-like organs rather than that of private voluntary associations.

In the second place, it could be plausibly argued that formal political and legal equality is systematically weakened in its force by persistent and cumulative social inequalities. In capitalist society unequal outcomes are not the product, in any simple sense, of the differential ability or willingness of

30 Dahl (1985); Bowles and Gintis (1987).

successive generations to take advantage of equally available opportunities; still less are they that in South Africa. Quite apart from institutional and environmental constraints on the economic success of some, there is the indisputable fact that wealth is heritable, giving some an unfair starting advantage over others.

More immediately salient here is the way persistent interpersonal inequalities impinge on civic participation and autonomy. Because of the monetization of exchange relations in bourgeois civil society, the purchasing power of capital flows across numerous boundaries of civil life: it can buy not only consumer and capital goods but human labour, political influence, informational media, education, personal and sexual independence, and many other things. Instead of distributions within one sphere offsetting those within another - the 'complex equality' sought by Walzer³¹ - capital sets in motion a pattern of cumulative unequalisation over society as a whole. In these circumstances the resources needed for effective voluntary associational activity - office space, technology, public platforms, articulate spokespeople and many others - are likely to be vastly more accessible to some than others, frustrating the normative ideal of a civil society of free and equal citizens.

There is, then, a case for such redistributive anti-capitalist policies as can be made by democratically elected governments and framed in the universalist, liberal and egalitarian terms I have used to depict the normatively desirable civil society. That case underlines one possible meaning of a working class, or at any rate *socialist*, civil society: a civil order free of capitalist dominance and cumulative inequality.

This conclusion does not, however, sit as easily with the Mayekiso and Swilling arguments as it might seem to do. For a key problem area in their and similar accounts is the failure to specify the agencies of redistribution and challenge to private power. This, I will argue, is linked to a more general difficulty in theorising state-civil society relations.

Swilling and Mayekiso want certain things to come about which on the face of it involve coercion. Swilling, for example, wants to see democratic controls on capital, affirmative action and the protection of rights of association. None of these can be achieved without imposing preferences for these things on citizens as likely as not to resist them: capitalists, employers, prospective employees, those who would violently suppress their political rivals, etc. Yet Swilling is deeply reluctant to name the agent of these

31 Walzer (1985).

coercions. He implicitly seems to call on us to accept that the principal agent can be civil society itself, or particular civil actors. *Civil society* can control capital, institute affirmative action, protect rights. But civil society cannot do these things: it is not a collective subject or alternative sovereign; it has no command post from which directives might issue. And even if it did, those issuing its commands would have no popular mandate to impose decisions unless they were, at the least, elected by universal franchise: unless, that is to say, they presided over something very much like a state. There is a collective actor model of civil society lying submerged in Swilling's account; or, alternatively, there is the implication that civil society can serve as the instrument of those who dominate its commanding heights - in a manner not unlike a state bureaucracy serves its elected officers.

Approaches like these will tend to overestimate what civil actors can actually accomplish. If civil society can be an actor or instrument, or in any other way purposive, it must follow that it is capable of establishing or serving a coherent will, and of placing at the disposal of that will the substantial resources held by the component individuals and groups of the civil body. If civil society *cannot* actually bind anyone, then the task of legitimate coercion must fall to another agency. That agency can only be the democratic state.

Let us take, to illustrate, a concern which Swilling and Mayekiso share with a number of radical civil society writers: to see civil society organisations actually become key providers of goods and services. The instruments they seem to have in mind are worker-owned enterprises and other kinds of co-operatives as well as non-governmental development organisations.³² Radical defenders of civil provision deny that their anti-statism is akin to that of the new right; their preferred co-ops and NGOs would operate in a social space that is neither state nor market driven but steered by shared human values and commitments. Relations between strangers - whether in the form of bureaucratised welfare redistributions or self-seeking market exchanges - would cede space to the more genuine communal exchanges.³³

If we leave aside the option of becoming conventional market actors or obtaining state assistance, these non-market organisations must depend, for their capacity to pay reasonable wages and buy materials and equipment, on gifts, voluntary labour or barter in a large non-monetary sector. These strategies have their place and will sometimes work: but there must be serious

32 Mzwanele Mayekiso (1992a), p 40; Swilling (1992), pp 79-80; Coovadia (1991).

33 For examples of such arguments in the wider radical literature on civil society see Rosanvallon (1988), Melucci (1988) and Hinrichs, Offe and Wiesensthal (1988).

questions about the capacity of a sector sustained in this way to become truly large and dynamic, satisfying the employment and consumer needs of the many. Even if one permits co-ops to operate in the market, only some will succeed there, and some of their success might well be owed to doing the kinds of things capitalist firms do: minimising employment, driving down health and safety, wage and environmental costs, creating new needs through wasteful advertising, and so on. And an economy of co-ops fighting it out in the marketplace will not necessarily yield an overall increase in social equity.

It seems clear, in other words, that state intervention will be needed to bolster the kind of sub-economic sector Swilling describes as well as to compensate for the inequalitarian results of its operation. Curiously, Swilling *is* in some instances happy to countenance this assistance, despite his strictures on the need for civil associations to be materially independent of the state and his general polemic against statism.³⁴ But this acceptance of the state as *deus ex machina* is problematic in two ways.

There is, firstly, a measure of utopianism in the hope that a fiscally hard pressed state will have a lot of money to distribute to voluntary organisations. The general tendency with the legitimisation of the South African state is for donor resources to be redirected away from civil associations to democratically sanctioned state organs which urgently require finance for reconstruction programmes. It is unlikely that much of this money will be passed on to voluntary organisations that cannot demonstrate, to the satisfaction of state planners, a clear and indispensable development function.

There is, in the second place, an unresolved tension, even contradiction, in Swilling's concession to the state as provider. The proper mission of state intervention, according to radical civil society writers, is to provide fiscal resources for autonomous civil actors; in practice it could licence new forms of state influence and leverage over the civil realm. At the least a fiscally responsible state would want fund-receiving voluntary associations to allow detailed scrutiny of their accounts and activities; it may in practice demand far more, including certain kinds of good political behaviour or the effective incorporation of social movements into the development bureaucracy. Limited fiscal assistance, in the form say of tax breaks for voluntary organisations and donors, might require relatively little state regulation, much of which could be provided for by universalistic legislation and enforced by courts. Large scale

34 Swilling (1992) welcomes state assistance for civil society 'via the fiscus, legal framework and policy process' (p82); Swilling (1993), p 33 explores the possibility of state funding for civics via a voucher scheme.

discretionary grants to particular organisations and causes would create much more room for bureaucratic intervention. It would also generate intense controversy, especially in cases where recipients are perceived by sections of the public to have explicitly political, as opposed to technocratic and developmental, aims. The donor state could find itself open to the charge that it is misusing funds for partisan purpose or patronage.³⁵

Civil associations, for their part, would find themselves under pressure to lower their political profiles. There are indeed civil society writers, like Konrad, who uphold the civil realm as a refuge from politics.³⁶ In practice, however, civil society is replete with political choices, if by that is meant choices affecting large numbers and determined by values and interests rather than natural or technical necessity. Those choices should, a strong democrat might argue, be made explicit and subject to political deliberation. In any case, civil associations subsidised by the state will never be more than apparently apolitical; their fate will become intertwined with those who hold or seek state power. While a less politicised civil society may not seem so grim a prospect in contemporary South Africa, one made up largely of parochial or technocratic civil associations would offer little challenge to tyrannical state power or party political hegemonism.

Radical political thinkers have, it is true, offered a number of models of state-civil society relations in which civil associations are able to gain access to the state's power and resources without compromising their autonomy. In these societal associations establish an equivalence with the state, directly enter the state as active agents or, in extreme cases, actually take the state's place. These models range widely from, at the one pole, various species of radical corporatism to, at the other, models of pure functional representation.

Those closer to the radical corporatist pole would allow for the existence of a state alongside but distinct from civil associations. Civil associations and the state would enter a partnership, negotiating over certain kinds of policy or sharing out areas of jurisdiction. In these models both the state and civil associations are understood to represent distinctive and legitimate interests needing accommodation.³⁷ Models closer to the

35 A voucher scheme would not be immune from the fiscal constraints and political controversies I have described here. A revenue-poor state might only allow vouchers redeemable by organisations playing a recognised role in its development programme; and it would have to police the process to ensure that vouchers are not collected by bogus groups.

36 Konrad (1984).

37 Examples here include labour-sympathetic forms of corporatism, Greater London Council style municipal socialism, proposals for combining parliamentary and functional assemblies in

functionalist pole would seek to vest all government in functional associations and councils. Repudiating representation of arithmetically counted citizens in geographic constituencies, champions of functionalism insist that true representation is based on real communities of interest and on real activities, classically but not only those formed around the workplace.³⁸ Elements of these models can be found in, for example, Swilling and corporatist proposals debated by writers close to the labour movement in South Africa. Do they offer a plausible picture of associations sharing the prerogatives and capacities of state power while retaining their character as autonomous members of civil society?

In my view they do not. While a convincing case can be made for building elements of radical corporatism into a democratic polity, any too ambitious extension of this principle will endanger both state democracy and civil autonomy. For state democracy it would raise questions about what voting power to grant to associations which are extremely diverse in their structures, aims and size, how to accommodate those who are members of more than one association or members of none, whether to standardise leadership election procedures within associations, and how to prevent layers of associational bureaucracy - for example local civics and branch leaderships, and above them the leaders of civic and union federations - from interceding between citizens and the decision-making process.

For the idea of civil society the consequences could be equally disastrous. Civil associations which make decisions binding on non-members would cease to be voluntary associations; they would confront non-members as unelected sub-governments. Leaders of civil associations would find themselves under pressure to behave in the 'responsible' way of governments, separating them from the aspirations of their more committed members, closing off the space to politics as opposition, and reducing the ideological diversity of associational life. As in the case of dependence on state funding, political discourse would grow increasingly technicist and parochial as civil associations come under pressure to assume particular functional roles. Civil associations would become examples of the kinds of organisations that civil society is supposed to be autonomous *from*.

bicameral systems, the pre-War version of G. D. H. Cole's guild socialism, and perhaps certain kinds of consociationalism.

³⁸ Examples here include Weitling's vision of pyramidal representation, council communism, the mature version of Cole's guildism, and John Burnheim's 'demarchy'.

A key source of difficulty in all these models is that they blur normatively important boundaries between civil society and the state. The blurring occurs in one of two ways: either civil society in effect occupies a corner of the state or usurps a portion of its functions (as under radical corporatism) or it becomes a solvent in which state power is reabsorbed or dissolved (as with functional democracy). Both elisions assume a fundamental alienation between state and society which needs to be rectified; since representative democracy cannot ameliorate this alienation, more radical remedies are required. Historically radical thinkers have addressed this alienation in a variety of ways, proposing everything from the anarchist abolition of the state through to the reunification of state and society under state tutelage. The arguments for radical corporatism and functional associationalism fall along this spectrum of proposals. What they miss is the fundamental insight of most of the European civil society literature - the proposition that a civil society must exist alongside a clearly separate state which enforces its civility, adjudicates its differences and aggregates the preferences of citizens in programmes of collective action. The state must do these things in a way that respects the liberty of citizens, including the associational liberty which is the underpinning of a robust civil society. To collapse the state-civil society duality is to invite either the totalitarian dissolution of civil society or the arbitrary rule of unelected associations and committees. The former is the path of orthodox Marxism-Leninism and radical nationalist populism; the latter leads all too easily to the self-help justice that accompanied the 'people's power' of the mid 1980s in South Africa.³⁹

In similar vein, the South African literature fails to theorise the relationship between two equally momentous projects, either merging them or granting one unwarranted privilege over the other. The one is encouraging a vigorous and densely organised civil society; the other is democratisation of the state. The latter is not ignored by South Africa's pro-civil society writers. Swilling, as well as a number of South African civic leaders, urges a programme of radical decentralisation and the bolstering of local democracy.⁴⁰ Some unionists favour legal institutionalisation of industrial democracy. These ideas are crucial to any radical democratic agenda, but they

39 South African civil society commentators who have registered the importance of the state to civil society include Stadler (1992) who, however, mistakenly disputes the normative importance of maintaining a boundary between the two; and Shubane (1992a). The classic statements of this position have been offered by John Keane (1988a; 1988b).

40 See Swilling (1992), pp77-8.

must be distinguished clearly from efforts to enrich voluntary associational life.

In the first instance what they extend the reach of democratic *state* institutions. That is to say, they create or strengthen arenas in which representatives of the majority can make decisions binding on those who fall within them, backed up by the state's legal and coercive sanctions. Strong neighbourhood governments and worker-run enterprises are not voluntary associations except insofar as people freely choose residential areas or places of employment, or could choose not to live or work anywhere. Local and enterprise governments can suppress voluntary associations in their jurisdictions as surely as can central governments. Civil autonomy has to be pursued *in addition* to extending state democracy; and in pursuing it civil associations must take as their starting point a clear distinction between civil society and local democratic organs. Urban social movements should not be called upon to act as forms of direct democracy or municipal self-government. Equally, however, they should be wary of integration into the local state; grassroots associations and local governments are not necessarily natural partners or intimates.

Insofar as it does distinguish the projects of deepening civil autonomy and state democracy, the South African literature often appears to privilege civil society as a site of democracy-building. In happy contrast to some radical social movement currents in Europe and elsewhere, the South African civic movement and its allied theoreticians have generally accepted the legitimacy of representative democracy, both at central and local levels. The persistent subtext of their discourse, nevertheless, is that representative democracy is essentially limited. It needs to be there, but real participatory democracy happens elsewhere - in civil society. It is from civil society that real opposition to any monopolistic one-party state will issue. Democratic collective action through the state is always potentially statist; the best thing you can do with the state is fragment it, share its powers to civil associations, or even reabsorb it into civil society. Neglect or downgrading of state democracy in favour of its civil counterpart might, however, incur its own democratic deficits. It could, for one thing, divert participatory democrats away from the possibilities of radical innovation within the state system. Equally seriously it could burden civil society with unrealistic expectations and deprive it of essential institutional supports.

One area where the neglect of state and state-centred democracy shows up has been pinpointed by Robert Fine⁴¹: that of the political party. A background assumption of much of the South African literature is that the parties have failed as a vehicle of deepening democracy: that they all too easily evolve into oligarchic bureaucracies pursuing votes and, when in power, governing from above. Civil associations, by contrast, are esteemed as dynamic grassroots organs. This imagery is not without its truth: social movements can mobilise grassroots networks of supporters around clearly defined issues of principle, whereas parties often appeal to unconvinced or peripheral supporters by making trade-offs over the heads of party activists. Even so, the party plays three crucial roles which civil associations cannot: it aggregates diverse demands into coherent programmes; it translates programmes into effective collective action by achieving electorally legitimated control of government; and it facilitates the peaceful transfer of governmental power from one political faction to another.

Civic defenders in South Africa mostly accept the background necessity of multi-party democracy, but they attach little importance to the task of ensuring effective party *competition*.⁴² To the danger of ANC domination of state and society they counterpose civil society and its associations: in effect civil movements are expected to take the part of opposition parties.⁴³ But they cannot do so because they are not in a position to win governmental power through popular mandate; they can only oppose by pressure and veto, exercised sometimes on behalf of majorities, sometimes on behalf of minorities. Two things can come of over-reliance on civic associations for effective opposition. The one is that opposition will be ineffective because it is not essentially in competition with government: civic associations might be co-opted into the state or adopt an apolitical posture in order to bolster an allied party in government. The other scenario is of permanent opposition through disruption and protest, often dominated by committed minorities, frustrating the efforts of democratically elected bodies without offering alternative vehicles of constructive government. Neither is an attractive prospect.

Whatever its limits as a vehicle of popular participation, effective party competition provides an essential element of opposition to the dominance of

⁴¹ Fine (1992a; 1992b).

⁴² Shubane is an honourable exception here (1992a, p 38).

⁴³ Mayekiso (1993, p 27) explicitly downplays the importance of parties, suggesting civics could play their role even when confronting a state dominated by a 'single progressive party'. In Swilling's work the role of competing parties is acknowledged implicitly, but no importance is attached to them.

one party over the state and, equally importantly, to the dominance of the state over society. The latter is worth underlining: civil associations derive a part of their influence from their ability to create a climate of opposition to the ruling party which its party-political rivals can exploit, or from influencing public opinion in ways that vote-seeking politicians of all parties are obliged to take on board. Their influence on politicians does not depend exclusively on this ability to influence the electoral scene; but some of their other channels of influence - strikes, rent boycotts and demonstrations - are, in a South African context, more hazardous, destabilising and potentially triggers of uncontrolled violence. Mass action is a necessary weapon of in the armoury of civil associations, but it is one that is best used selectively by those aspiring to an ordered and peaceful - a genuinely *civil* - society.

If my argument is correct, the longer term consolidation of democracy and civil autonomy in South Africa requires, amongst other things, the emergence of an effective rival party capable of engaging the ANC on the terrain of 'high' politics - the terrain of peacefully coming global political programmes.⁴⁴

Civil Society and Democracy

I have drawn attention so far to important ambiguities in the South African civil society literature. What conception of civil society might avoid the kinds of difficulties I have pinpointed?

Definitions of civil society are notoriously various. During its career the term has been applied to the political association or community as such, to everything in society outside the state and to the public political sphere. Civil society may or may not include a market or self-managed economy, educational institutions, local governments, households or recreational voluntary associations. We need not scrutinise or compare these options; there is no objectively superior definition amongst them awaiting selection. What counts as a correct definition will depend on the role the definer wants the concept to perform. In liberal democratic theory civil society serves as free

⁴⁴ One obvious candidate for this role would be a democratic labour party, as Fine too notes. A labour party would offer several attractions from the standpoint of radical democratic theory. It would build on social solidarities which cut across ethnic and racial lines, generating a more fluid politics where electors vote for programmes and ideas rather than for perceived champions of their racial and ethnic interests; and it would provide a constitutional, peaceful alternative political vehicle for those disaffected by the ANC's increasingly middle class orientation and failure seriously to tackle existing social and economic inequalities.

space for individuals and their voluntary associations; its members seek freedom both *from* the state and (in respect of relations between citizens) guaranteed *by* the state. The state treats all individuals equally: all have equivalent rights and duties before the law. Radical democratic theory *adds* to this two ideas: the one, anticipated by Mill and Tocqueville, that civil society is a space for human solidarity and collective self-organisation; the second, foreshadowed by Rousseau, that a normatively ideal civil society is populated by citizens who are not only formally equal but sufficiently equal in fact to free them of dependence on, or subordination to, fellow citizens. The space that corresponds to the enlarged radical ideal is a voluntary associational sphere subject to the laws of the democratic state, where that state intervenes to protect and promote equal autonomy amongst citizens. It is important to reiterate and, where necessary, draw out the implications of this description.

Clearly there are tensions inherent in both the liberal and radical definitions of civil society between citizen autonomy and state coercion. Citizens are free of the state, yet subject to its laws. The state both enlarges and circumscribes freedoms; it may abridge some liberties the better to extend others. One key task in defining the parameters of an autonomous civil society must be to specify, in constitutional law, which liberties of citizens can and which cannot be infringed by a democratic state.

The imperative of autonomy presumably requires that as few liberties as possible be circumscribed; those of democracy and associational autonomy require, in particular, that political liberties (freedoms of expression and association) be guaranteed. Liberal and radical descriptions of civil society provide no warrant for arbitrary search, seizure or incarceration, torture, capital or corporal punishment. The presumption of autonomy implies, therefore, that these should be prohibited. On the other hand both liberals and radicals would deny citizens the freedom to assault, injure or kill other citizens, to seize property from them without legal sanction, or to threaten or incite such actions. There are additional liberties which the state can abridge on the radical definition: those arising from forms of ownership which violate the democratic rights of workers or contribute to systemic and cumulative social inequality.

This is a basic list: its detailed elaboration is a complex matter, much debated in South Africa at present. What such considerations highlight is the formal or legalistic aspect of the project of building civil society: an aspect absent, downplayed or treated rather cavalierly in the civil society literature reviewed here. If civil society is definitionally a free space bounded and

protected by law, then it can only be realised with the legal specification of the rights and duties of those who inhabit it; this in turn entails recognition of civil society by its other, the state. While some civil society writers prefer to stress the rights won by civil society through struggle, the acknowledgement and codification of those rights in law is necessary to a stable and widely enjoyed civil autonomy. The formalising of rights and duties offers citizens some reassurance against arbitrary power and unfair treatment. While providing no guarantees against the determined abuse of law, constitutional and legal protections offer a symbolic resource to citizens claiming entitlements or seeking redress against injustices.

The kinds of rights which are most suited to a civil society of free equals are those invested in citizens. There are no rights attaching to groups which do not attach to each of their members; and there are no rights which members of one group can claim that members of another group cannot. Rights are in principle indifferent to group particularity; even the bearers of affirmative action rights are best specified in terms which do not single out sections of society by name.⁴⁵ If this is accepted, it must follow that rights belong in the first instance to *pre-associational* citizens. The very idea that the associations of an autonomous civil society are voluntary implicitly acknowledges this; individuals may join associations or leave them, without any loss of right. Some might consider this claim a license to individualism; in fact it is the precondition of a genuine solidarism, if by that is meant one forged in consent to meet real perceived needs and objectives. It is the constitutional elevation of particular organisations as representatives of sections of society which could do most harm to associational life, granting to some associations special privileges and a reified legal status independent of shifting patterns of group allegiance on the ground.

This account suggests that a vigorous civil society is one best conceived in terms that are both *universalistic* and *voluntaristic*. Voluntary associations cannot monopolise the representation of sections of citizenry before the state, or function as gatekeepers between a 'community' and outside interests; nor can they govern those 'communities', in the sense of making binding rules or adjudicating the disbursement of their resources. They can of course bind genuinely voluntary members, but members of a locality or workplace are never that; they are at best quasi-voluntary, enjoying a limited option of exit.

⁴⁵ It does not follow that the law cannot specify examples of the categories of people who may not be denied citizenship rights, the better to ensure that the umbrella of universality covers historically oppressed groups.

Democratic structures based on universal franchise can govern these places without incurring an inherent philosophical contradiction; voluntary associations cannot.⁴⁶

I have depicted civil society that is compatible with, and may require, a radical redistribution of wealth and a rough equalisation of income. Here too the beneficiaries of state redistribution must be conceived as pre-associational in the first instance. That is to say, they receive transfers as citizens directly from the state, not as members of associations or via associations. NGOs are free to solicit and pass on gifts to particular constituencies or memberships; the universalistic state is not, and where it delegates welfare functions largely to voluntary associations it risks introducing uneven and arbitrary coverage or fostering patronage and dependency. Many who welcome a large and successful voluntary welfare sector will harbour entirely defensible doubts about the large-scale civil communalisation of the welfare state.

A civil society underpinned by citizen rights has another characteristic which complicates the utopia of a socialist civil society. While a rights-protected civil realm is likely to yield democratic benefits, these are objective or inadvertent. Civil society itself possesses no shared purpose or end. If individual rights include those to freedom of expression, association and self-narration, then individuals (separately and in groups) are entitled in principle to define their own ends. There will of course be movements which pursue projects within civil society which they will seek to implement through the state. But no programme of government, no shared project, can ever become coterminous with civil society or supply its universal justification. Socialism is not exempt from this contingency, however much civil society might benefit from wealth redistribution. It is one of many projects *of* civil society; it can only be imposed *on* society by a governing party enjoying the conditional consent of electors, and then only within right-respecting limits.

The state democracy that best supports the civil society I have defended here is above all *procedural*. It codifies the rules of political competition and supplies the institutional field upon which that competition proceeds; it is not itself biased to a particular party or substantive ideology. Like civil society itself, it has no inherent purpose other than to facilitate the purposes of free and equal citizens. It follows that while democratic game rules are procedural, particular *parties* and, in power, *governments* legitimately pursue substantive

⁴⁶ This raises the touchy question of whether legalised trade union closed shop can be justified. My provisional answer is: only as a proxy for democratic enterprise government. Where the latter is realised this and other restrictive practices should fall away.

ends and programmes. Democratic debate is precisely about the ends of collective and governmental action. There is of course a nexus where procedural and substantive collide in ways that demand ideological choices or trade-offs. A decision about whether democratic game rules apply to the economic enterprise is not neutral as between capitalism and socialism. To apply them is to suppress (justifiably, from my standpoint) certain rights inhering in private property. As far as possible, though, the ideological content and direction of state politics must be determined in the field of free and unrigged democratic competition. It is not the business of a democratic constitution to ordain social ends or substitute itself for politics.⁴⁷

Concluding Remarks

South Africa's new democratic state coexists with an autonomous societal sphere that is at present not truly civil, but marked, in townships, white farming areas and rural Natal-KwaZulu, by violence and intimidation; and a civil society which, because of the massive legacy of inherited inequalities, is far from being one of equals. Yet the new state is a procedural and rights-protective liberal democracy whose constitutional rules commit it to recognising civil autonomy. Participants in the civil society debate generally welcome this as a democratic achievement. Much remains to be decided, however, including many details of the relationship between the democratic state and South Africa's rich seam of voluntary civil organisations. While struggles for associational autonomy in the early 1990s have already borne some constitutional fruit, the theoretical and practical clarification of state-civil society relations is likely to continue for some time.

Two trends are now shaping state-civil society relations. One is the continuing but increasingly tense post-election relationship between the ANC and its key civil society partners, the Congress of South African Trade Unions and the South African National Civic Organisation. The other is the unfolding of a quasi-corporatist set-up of tripartite sectoral bargaining and workplace forums involving unions, and of community development forums drawing in civics and other NGOs.

⁴⁷ It may be correctly adduced from this that I am not wildly enthusiastic about over-extending South Africa's final constitution in the areas of second and third generation rights. Social rights should as far as possible flow from ordinary laws enacted by elected legislatures, and not be imposed by constitutional lawyers.

While it is still far too early to assess whether these developments portend a strengthening or taming of associational life in South Africa, none should succumb to the illusion that these proto-corporatist partnerships provide the magic key to an autonomous and participatory civil society. The presence of a sympathetic state does *not* allow civil society to transcend the limits I have identified in this paper. In some respects the new democratic institutions make life more difficult for broadly pro-ANC civil organisations by joining them in an intense race for scarce resources and personnel and depriving them of some of their special legitimacy as voices of disenfranchised 'communities'. Participation in state sponsored forums cannot compensate associations for loss of real importance or value on the ground, and indeed carries with it dangers of co-option and entanglement in webs of patronage. A vibrant civil society will require a more diverse array of associations than can be contained within corporatist arrangements or under the rubric of the ANC and its civil partners. It requires also (amongst other things) effective political competition, freedom to engage in political activity in diverse arenas of both society and state, unthreatened by violence, and redress of social inequalities.

In securing these still unfulfilled conditions it will not be helpful, I have argued, to treat civil society as a collective opposition or alternative mechanism of government, as embodied in particular kinds of movement, or as a privileged site of democracy building. To make these moves is to ignore the essential diversity and non-purposive character of civil society, with a whole range of potentially deleterious results. It is also to ask too much of civil associations and to underestimate the potential value for both democracy and civil society of a separate state with its mechanisms of collective action and binding decision-making, elected by and accountable directly to citizens.

References

- African National Congress, 'The African National Congress and its Relationship to Civics', Political Education Discussion Paper, 1991.
- African National Congress, *Ready To Govern*, 1992.
- Atkinson, D. (1992) *Negotiated Urban Development: Lessons From the Coal Face*, CPS Social Contract Series, Research Report no 26.
- Baskin, J. (1993) *Corporatism: Some Obstacles Facing the South African Labour Movement*, CPS Social Contract Series, Research Report 30.
- Bernstein, A. and McCarthy, J. (1994) 'Community Organization and a Democratic South Africa', *Development and Democracy*, 8, pp 68-81.
- Bowles, S. and Gintis, H. (1987) *Democracy and Capitalism* (London, Routledge and Kegan Paul).
- Botha, T. (1992) 'Civic Associations as Autonomous Organs of Grassroots Participation' *Theoria*, no 79, pp 57-74
- Bundy, C. (1993) 'Theory of a Special Type' *Work in Progress*, 89.
- Christianson, D. and Ndukwana, S. (1994) 'The Future of the Civics: Contours of the Debate', *Development and Democracy*, 8, pp 38-49.
- Cobbett, W. and Reid, G. (1992) 'Negotiating in Bad Faith: Local Level Negotiations and the Interim Measures Local Government Act', *South African Review*, 6, pp 239-253
- Coovadia, C. (1991) 'The Role of the Civic Movement' in Swilling, M, Humphries, R and Shubane, K, eds, *Apartheid City in Transition* (Oxford, Oxford University Press) pp 334-349.
- Dahl, R. (1985) *A Preface to Economic Democracy* (Berkeley, University of California Press).
- Development and Democracy* (1994), 8: Civics in South Africa.
- Fine, R. (1992) 'Civil Society Theory and the Politics of Transition in South Africa', *Searchlight South Africa*, 3 (1), pp 19-31.
- Fine, R. (1992) 'Civil Society Theory and the Politics of Transition in South Africa', *Review of African Political Economy*, 55.
- Friedman, S. (1991a) 'An Unlikely Utopia: State and Civil Society in South Africa', *Politikon*, 19 (1), pp 5-18.
- Friedman, S. (1991b) 'Soweto: Managing The Transition?' in *Politikon*, 18 (1), pp 97-111.
- Friedman, S. (1992) 'Bonaparte at the Barricades: The Colonisation of Civil Society', *Theoria*, no 79, pp 83-95.

- Friedman, S. (1993) *The Elusive 'Community'. The Dynamics of Negotiated Urban Development*, CPS Social Contract Series, Research Report no 28.
- Harris, L. (1993) 'One Step Forward', *Work in Progress*, 89.
- Heymans, C. (1993) 'Towards People's Development? Civic Associations and Development in South Africa', *Urban Forum*, 4 (1).
- Heymans, C. and White, R. (1991) 'Playing Politics Without Power: The State and Black Local Government in the South Africa of the 1980s/1990s', *Politikon*, 18 (1).
- Hinrichs, K., Offe, C. and Wiesensthal, H. (1988) 'Time, Money and Welfare-State Capitalism' in Keane, J. (ed) *Civil Society and the State* (London, Verso) pp 221-243.
- Keane, J. (1988a) *Democracy and Civil Society* (London, Verso).
- Keane, J. (1988b) 'Despotism and Democracy' in Keane, J. (ed.) *Civil Society and the State* (Verso, London), p 35-71.
- Konrad, G. (1984) *Antipolitics* (London, Quartet Books)
- Maree, J. (1993) 'Trade Unions and Corporatism in South Africa', *Transformation*, 21.
- Mayekiso, M. (1992a) 'Working Class Civil Society: Why We Need It, and How To Get It', *African Communist*, second Quarter, pp 32-42.
- Mayekiso, M. (1992b) 'A Response to Blade Nzimande', *Work in Progress*, p 21.
- Mayekiso, M. (1993a) "'Institutions that Themselves need to be Watched Over": A Review of Recent Writings on the Civic Movement', *Urban Forum*, 4 (1) pp 21-54.
- Mayekiso, M. (1993b) 'Heat, Light and Civil Society: Another Rejoinder to Nzimande and Sikhosana', *African Communist*, third quarter.
- Mayekiso, M. (1993c) 'The Legacy of Ungovernability', *Southern African Review of Books*.
- Melucci, A. (1988) 'Social Movements and the Democratization of Everyday Life' in Keane, J. (ed.) *Civil Society and the State* (London, Verso) pp 245-260.
- Nzimande, B. and Sikhosana, M. (1992a) 'Civil Society and Democracy', *African Communist*, first quarter, pp 37-51.
- Nzimande, B. and Sikhosana, M. (1992b) "'Civil Society" Does Not Equal Democracy', *Work in Progress*, no 84, pp 26-7.
- Rosanvallan, P. (1988) 'The Decline of Social Visibility' in Keane, J. (ed.) *Civil Society and the State*, (London, Verso) pp 199-220.
- Shubane, K. (1994) 'The Future of Civics', *Indicator South Africa*, 11 (2).

- Shubane, K. (1992a) 'Civil Society in Apartheid and Post-Apartheid South Africa', *Theoria*, no 79, pp 33-41.
- Shubane, K. (1992b) *The Struggle Continues? Civic Associations in the Transition*, CPS Transition Series, Research Report no 25.
- Slovo, J. (1990) *Has Socialism Failed?*, Umsebenzi Discussion Pamphlet.
- Schreiner, G. (1994) 'Beyond Corporatism - Towards New Forms of Public Policy Formulation in South Africa', *Transformation*, 23, pp 1-22.
- Stadler, A. (1992) 'Strong States make for a Strong Civil Society', *Theoria*, no 79, pp 29-32.
- Seekings, J (1992) 'Civic Organisations in South African Townships', *South African Review*, 6, pp 216-238.
- Swilling, M. (1992) 'Socialism, Democracy and Civil Society: The Case for Associational Socialism', *Theoria*, no 79, pp 75-82.
- Swilling, M (1993) 'Civic Associations in South Africa', *Urban Forum*, 4 (2), pp 15-36.
- Swilling, M., Cobbett, W. and Hunter, R. (1991) 'Finance, Electricity Costs and the Rent Boycott' in Swilling, M., Humphries, R. and Shubane, K. (eds.) *Apartheid City in Transition*, (Oxford, Oxford University Press) pp 174-196.
- Vally, B. (1992) *A Social Contract. The Way Forward?* (Johannesburg, Phambili).
- Von Holdt, K. (1993) 'The Dangers of Corporatism', *South African Labour Bulletin*, 17 (1).
- Walzer, M. (1985) *Spheres of Justice. A Defence of Pluralism and Equality*, (Oxford, Basil Blackwell).
- Work in Progress / Reconstruct* (various editions).

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