

Reflections on the relationship between the State and the Party



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The Context: From Apartheid to Democracy

Single party dominance is a major component of the debate about the relationship between the party and the state. South Africa does not have a strong history of opposition. If we limit ourselves to the past sixty-four years, ours has been a political reality of single party dominance since 1948. In actual fact, it can be argued that, to the extent that we should be concerned about the reality or the perception of the disappearance of the line between party and state, this country has never had a strong tradition of separation of powers.

During apartheid, there was a convergence of interests between the state, the ruling National Party, the church, the media (public and private), business, academia, the judiciary and the majority of white people. While among white people there was some opposition to this state of affairs, what became dominant during this period in our history is not just a world view that reinforced the power of the apartheid state: the power of the apartheid state depended in no small measure on the confluence and hegemony of those social, political and economic interests upon which white minority rule was founded. In short, in terms of our colonial and apartheid history, the apartheid state was a colonial state hence in the parlance of the liberation movement South Africa was called a 'colony of a special type'.

Objectively, however, there is no doubt that we should be concerned about what, on the part of some in the African National Congress (ANC), appears to be an ambivalence towards democratic values in general and constitutional values in particular. But, in the same way that not every person who fought against apartheid during the liberation struggle was necessarily engaged in a struggle for democracy, it is possible that some of the concerns about single party dominance and the withering away of the line between party and state are informed more by the fact that the wrong party is in power and much less by concerns about the quality of our democratic experience. Put differently, we should not rule out the possibility that some among us participate in debates about the separation of the party from the state only to the extent that the fusion (perceived or real) of party and state has not evolved in the interests of some of those who benefitted the most from the fusion of party, state and white minority interests during apartheid. However, those who support the ANC must not respond as though embedded in my argument is the suggestion that the sins of the present can be erased by the sins of the past. The challenge, therefore, is to avoid errors of analysis, perception and understanding that

may flow from the dishonesty of those who, in this debate, want to cast themselves in the role of apartheid or ANC apologists, with both parties pretending that they are acting in defence of democracy and our constitution.

The ANC and the State: Ambivalence towards democratic values?

In an August 2011 interview with the Sowetan¹, ANC secretary-general, Gwede Mantashe, argued that: “There are many things happening in the judiciary that will only be seen in 10 years time. [O]ne of the things that is dangerous: The independence of judiciary and separation of powers must never be translated into hostility, where one of those arms becomes hostile to the other. My view is that there is a great deal of hostility that comes through from the judiciary towards the executive and Parliament, towards the positions taken by the latter two institutions. Unless this issue is addressed deliberately it’s going to cause instability. It undermines the other arms of government and this could cause instability”.

Strictly speaking, Mantashe was talking about the separation of powers between the executive, the legislature and the judiciary. What caused some alarm is the fact that, at the time, there was a debate raging in the country about the decision by President Jacob Zuma to nominate Judge Mogoeng Mogoeng for the position of Chief Justice. Furthermore, Mantashe spoke in his capacity as an ANC leader and to some this was indicative of the tension, not between the executive and the judiciary, but more worryingly, of conflict between the judiciary and the ruling party. In the same interview, Mantashe alleged that there is, “this highly verbalised perception of an ANC that is reckless that must be resisted. Then you find institutions – opposition parties, civil society groups and others – who seeks to oppose the ANC. They are using the court to execute that opposition. Secondly, you have people who want to taint the history of the struggle and want to equate the struggle for freedom with apartheid and in the process pretend as if apartheid never existed. It is issues like demographic composition of institutions and issues of affirmative action in the workplace. If you take all those cases and the role of AfriForum, you will realise it is about reversing the gains of transformation, using the courts.”²

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A few months later, the president argued that the Constitutional Court and the Supreme Court of Appeal needed to be reviewed to avoid further encroachment by the judiciary into the executive’s domain. Six years earlier, the ANC expressed concerns not too dissimilar to those of Mantashe when, in its 2005 January 8 statement, it warned: “the reality can no longer be avoided that many within our judiciary do not see themselves as being part of these masses, accountable to them, and inspired by their hopes, dreams and value systems ... if this persists for too long, it will inevitably result in popular antagonism towards the judiciary and our courts, with serious and negative consequences for our democratic system as a whole .”³

In a discussion document that was prepared for the June 2012 National Policy Conference of the ruling party, it was argued that, “One of the main current tasks of the African National Congress as resolved in Strategy and Tactics in 2007 is “to strengthen the hold of the democratic movement on state power”.⁴

How should we interpret these statements? Are they an indication of the possible erosion of the line between the state and the ANC?

In part, the answer lies in what is called the ‘liberation movement model’. According to this model, there are features that are common to all liberation movements. The most important of which relate to the fact that liberation movements, in their battle against a repressive and oppressive regime, had to make tactical choices that had the effect of narrowing the internal democratic space. For instance, the securitisation of internal political processes and other operations, to prevent infiltration by enemy agents, causes what is effectively – depending on the liberation movement – a partial or complete suspension of internal democracy. While in the arena of internal mass mobilisation – such as was the case with the programme of the United Democratic Front in South Africa – the level of internal democracy remained relatively high, in the political and military underground security considerations and measures created a culture of suspicion which informed the hostility of responses to perceived and

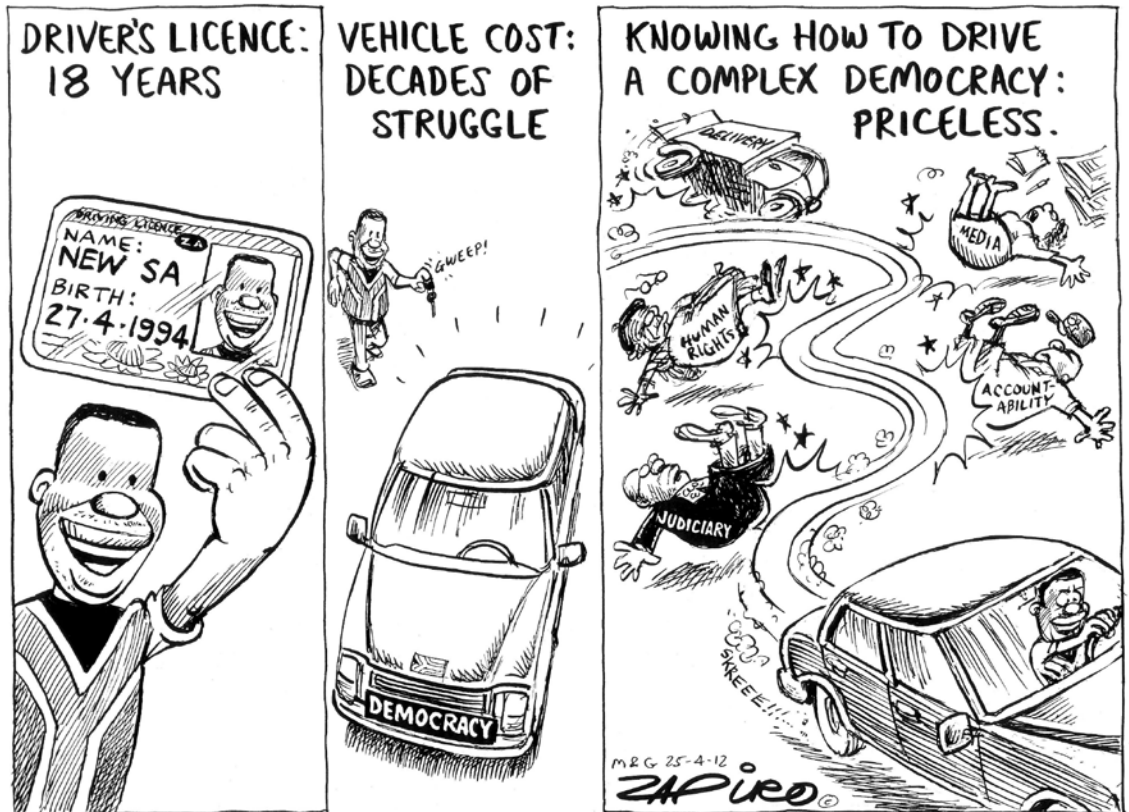
real threats. Since these threats were perceived to be an attack directed not only at an organisation but also at the organisation as a manifestation of the will of the people, some, when the liberation movement became a parliamentary party, were insufficiently prepared for the reality of democratic opposition in the post-conflict period. The fact that in post-apartheid South Africa we still do not have a competitive political party system should be a source of confidence and security for the dominant party – the ANC. But this is not always the case. Unfortunately, power, in the context of a dominant party in which some can no longer distinguish between the will of citizens and the interests of the party, can breed both intolerance and discomfort towards alternative views. In short, when what is bad in the eyes of the ANC is perceived to be

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bad for the country because the will of the people and that of the party have fused into one in the eyes of sections of the leadership, differences between the judiciary and the executive, in the context of single party dominance, may assume the status of an attack on the National Democratic Revolution itself. It is for this reason that the democratic movement may, in the view of some in the ruling party, have to defend the democratic post-apartheid state against what are perceived as forces of counter-revolution by strengthening its hold on state power. It is in this context that debates about the independence of the judiciary, cadre deployment, the media tribunal and the Protection of State Information Bill (The Secrecy Bill) must be understood. If we take this broad context into account, the agreement a few months ago to suspend e-tolling in Gauteng seems to support the view that the ANC is eroding the line between the party and the state. What worried some in the country is the fact that the agreement which led to the suspension of e-tolling was entered into between the Congress of South African Trade Unions and the ANC on the same day an ANC Minister of Finance was in court in an attempt to achieve the opposite. While these examples point towards a problem, do they constitute evidence that the ANC is guilty of much more than just an ambivalence towards democratic values?

Speaking Truth to Power

The thing to remember is that the dominance of the ANC is a function of both



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overwhelming electoral support and an electoral system that privileges the interests of political parties over those of the ordinary citizen. From this, two things arise – the blurring of the line between parliament and the party, and the blurring of the line between money and politics. It is with respect to the latter that it is not sufficient, even if it is convenient, to limit ourselves only to concerns about the separation (or the lack thereof) between party and state. In response to the perception that the dominance of the ANC is causing the disappearance of the line, we must, in addition, not make the mistake of thinking it is enough to 'speak truth to power' if by that we mean that power can be exercised and abused only by the ANC. To do so would be to miss the point that we should be vigilant also about the separation of money and politics. We must, therefore, examine the components of power in South Africa to avoid the creation of an illusory dynamic between power and powerlessness because the erosion of the line between the state and money is as damaging, if not more so, than the erosion of the line between party and state. Such an approach will force us to examine the link between state power and the distribution of social, political and economic resources outside the domain of the state. The challenge, therefore, is to speak truth to all forms of power.

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Starting with the ANC, the scourge of corruption in this country is an indication of how the interests of citizens may come under threat as a result of the distortions that come with single party dominance, which the dishonest among us deliberately confuse with a one party state. What must be borne in mind is that, in South Africa, single party dominance is a product of the democratic will of the majority of South Africans. That notwithstanding, the dominance of the ANC has implications for the state. On the positive side, a strong ruling party may lend stability and credibility to the state. On the other hand, single party dominance, especially in those parts of the country where the state is the main and sometimes sole instrument of class formation, may constitute a threat to the interests of citizens and the state itself when the dominant party is riven by political tensions and internecine battles for power and money.

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We must, for the reasons above, approach the question of the party/state separation from the angle of speaking truth to power and that of the pernicious effects of corruption on the body politic as examples of how the separation can be compromised, as well as the effect to which the compromise may occur. In the first place, power is located in different places in South Africa. Because the manner in which power is exercised is not valueless, it would be an error of an egregious nature to assume that business, the media and civil society are powerless and valueless monoliths. To the extent that

the state is a contested instrument of domination, the fact that the transition from apartheid society to a new society whose social, political, economic, race class and other relations will be the anti-thesis of our apartheid past remains incomplete. The contest between the old and the new, and the contradictions of that which is new, are an important feature of contests in the state. In this regard, the hegemony of forces outside the state, particularly the hegemony of business (often confused with the market), and the content it has given to the market, are an important dimension of contests for the identity and orientation of the state. In simple terms, while the composition of our legislatures seem to suggest that race as a primary social contradiction has been removed, the power and influence of money over the political majority suggests that components of power in South Africa should be understood in terms of the hegemony of those who do not hold political power, whose interests are not insignificant in the content of decisions that are made in the state. The Marikana storm that swirls around the ANC heavyweight and businessman, Cyril Ramaphosa, should not be seen as the story of a man, a black former trade union leader, who is being accused of colluding with capital, ANC cabinet ministers and the security establishment in a decision-making process which caused the deaths of thirty-four miners, but that of a much more fundamental problem – the relationship between money and the state. Apart from the fact that to accuse Ramaphosa of being responsible for the massacre is an error of logic, the accusation misses the point that the saga in question suggests that some kind of accommodation, tacit or otherwise, may have been entered into between business and political elites at some point in the evolution of our transition. Therefore, Marikana is, in part, the story of the influence of money on the state. In other words, citizens must be vigilant about how the influence of money can impact on public policy and decisions in the state in a manner that will not only erode the line between money and the state, but also in ways that may compromise the democratic experience of us all. We must also

be vigilant about the possible impact of the triangle of power between the state, business and the ANC. To the extent that there may be a confluence of interests between the state, the ANC and money, it should concern us quite deeply that corruption is an indication of the potential dangers of this confluence of interests. On the one hand, the country must grapple with the (Gramscian) reality of a class that wields political and economic influence without occupying the commanding heights of political power, and the impact of corruption in the state as a driver of internal ANC battles, as well as the impact of internal ANC instability on the state, on the other. The latter should probably concern us the most because internal ANC battles are about capturing the ruling party, en route to capturing the state in pursuit of narrow economic ends. As alluded to earlier, in provinces such as Limpopo, Mpumalanga, North West and the Eastern Cape, the state is the main creator of a middle class. Because the middle class is constructed in this manner in these provinces, the parasitic and predatory elements are the link between political influence and state power. This has the potential to compromise our constitutional values because access to power through the ANC has become the means towards ignoble ends of a nature that may undermine the integrity of the state and that of our democratic institutions. It is this dimension of the separation of party from state which should give one sleepless nights.

Conclusion

If the ANC falls into the hands of those whose class and political instincts are predatory, parasitic and kleptocratic, ambivalence towards democratic values will be the least of the challenges facing the country. The complete withering away of the line between party and state will constitute a greater threat under these circumstances. Until then, what we face is the possibility that some in business and others in the ANC will continue to define their narrow interests in ways that seek to blur the line between party and state and that between money and politics. The solution, therefore, is to transform the state to make sure that it reflects both our constitutional values and the will of the people. The answer is to understand and interrogate the components of power in South Africa on a continuous basis with the aim of insulating both the state and our democratic institutions from those who exercise power inside and outside the state to the detriment of the popular will of South Africans. In short, the will of the people must govern inside and outside the state.

NOTES

- 1 Mkhabela, M. Full Interview: ANC's Mantashe Lambasts Judge. Sowetan. August, 18, 2011.
- 2 Ibid.
- 3 African National Congress. (2005, January 8). January 8th Statement 2005: 50 Years of the Freedom Charter.
- 4 African National Congress. Legislature and Governance. Policy Discussion Document. March 2012.