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Smuts House Notes

In this issue of the *Bulletin*, there are — unusually — two reviews of the same book, Jesmond Blumenfeld's collection *South Africa in Crisis*. "Crisis" has become one of the most over-worked terms in descriptions of current South African society and politics. As Dr. Nel notes in his review, the book does not adequately define the character of the crisis. Rightly, he questions the assumption that the level of violence and disturbances in the country at the time the book was conceived constitute the most important barometer of the crisis. Yet his own suggestion that the crisis lies in the loss of legitimacy by the ruling oligarchy and its attempts to restore this through a combination of repression and welfare also raises difficulties.

One problem with this usage, and with a good deal of the "crisis" literature on South Africa, is that it draws on the literature of liberal democracies and advanced capitalism for the theoretical construction and historical and sociological understanding of its key terms, and particularly the meaning of legitimacy.

Yet in that literature, one of the main problems on which theorists of legitimation crisis concentrate is the need for state institutions to convey, as Claus Offe puts it, the "image of an organisation of power that pursues common and general interests of society as a whole, allows equal access to power and is responsive to justified demands". Such an image, Offe argues, can only be maintained if the state's nature as a capitalist state is concealed. Equally important, though unstated, is the assumption that political institutions should exist which support such an image of power: and specifically common political rights of participation and political organisation.

If the South African crisis were to be analysed within that framework of assumptions it would be necessary to postulate that up till the mid-1970s, the state enjoyed legitimacy in the wider society which thereafter it lost, presumably because significant groups of blacks perceived that in practice it failed to deliver decisions which corresponded to an image of a state which pursued the common and general interests of the whole society, allowed equal access to power, and so on.

But the South African state did not in the mid-1970s (or subsequently) even remotely attempt to project such an image, and no one would have been taken in if it had attempted to do so. The basic framework of the state up till the end of the 1970s, and in certain important respects to the present day, was shaped by Verwoerd's policy of separate development.

The effort which the Verwoerdian state made to generate some legitimacy for the state was to establish the homeland states, that is to say, to provide an alternative to common political rights in a unitary state. In "white" South Africa, he made it clear that there was no possibility of equality. It would of course be correct to argue that for this reason it enjoyed little or no legitimacy among blacks (and for the same reason a very high degree of legitimacy among whites who benefited from the inequality in access to power).

The crisis which set in during the mid-1970s was not a legitimacy crisis, but a crisis in state power, which resulted from a series of shifts in the relative strengths and commitments of domestic, regional and international actors. The most obvious change in regional power was the decolonisation of the Portuguese colonial empire, and the more fundamental shift in international power relations may have been (if we follow Immanuel Wallerstein) the decline of the United States from being *the* hegemonic world power to becoming just one "core" state among others. In the region this posed opportunities and threats to the South African state. Domestically the economic crisis which followed the Yom Kippur war and the long period of stag-flation which followed opened up a series of negotiations in areas where the state, its power last seriously tested in the 1950s, had effectively been able to call the shots for 20 years.

If this analysis is correct, the South African crisis was the obverse of the "legitimation crisis" which Offe presented as the contradiction between the image of the capitalist state as representing the interests of the society as a whole and the reality of its relationship to the accumulation process. The South African crisis was much simpler. It was the consequence of the inability of the South African political system to continue, without admitting to political participation groups which it had previously successfully excluded from common political rights. This in turn precipitated a legitimacy crisis in white politics. That crisis was not, however, the contradiction which Offe writes about, but the contradiction between the self-regard of whites who saw the state as essentially *their* political property, and what they took, rightly or wrongly, to be a trend towards promoting the interests of other racial groups which the government appeared to be taking.

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*Text of the address given at the Sixth Bradlow Lecture at the South African Institute of International Affairs, Jan Smuts House, Johannesburg, November 1987.

Western economic policy towards South Africa: Empty Rhetoric Or Real Interest?

Introduction

The policies — particularly the economic policies — pursued by the major western governments towards South Africa generate very strong — and widely differing — emotions right across the South African political spectrum. In part, these responses arise from the differing expectations, hopes and fears which are entertained with regard to the role played by western economic links with South Africa in the current political struggle. But they are also due to the fact that the policy stances which western governments present to South Africa, the motivations which underlie those stances, and the rhetoric which accompanies them, appear confused. In consequence, the policy changes which have taken place in recent years have been open to misinterpretation by South Africans, both black and white.

All too often, these misunderstandings arise from a failure to recognise that foreign policies — as much as any other policies — seldom exist in a vacuum, but are normally a reflection of real national interests, particularly as perceived by policy makers. There are, of course, many influences which impinge on the policy-making process: political, military, strategic and economic factors are all relevant. But the capacity of domestic interest groups to convince governments as to the nature and location of the national interest is of considerable importance in the determination of policy. Thus, in seeking to understand western policies towards South Africa, it is necessary both to appreciate the role played by national interests and to look beyond political rhetoric and short-term policy responses to the balance of power and influence among the relevant contending political and economic interest groups.

Seen in this light, it becomes clear that the increasingly hard-line stances taken against South Africa by many western governments in recent years were not — as many white South Africans might wish to believe — primarily

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the result of some malicious or capricious desire on the part of a tiny minority of ill-informed but influential people to attack South Africa for their own narrow political ends. They were also not — as many opponents of South Africa tend to believe — primarily the result of the triumph of idealism and morality over economic and other material interests. Malice, caprice, misinformation, ignorance and opportunism have doubtless been present in more than usual measure in the public debate about South Africa; similarly, issues of the morality of 'trading with apartheid' and 'investing in apartheid' have indeed been prominent in fashioning the views of many individuals in this debate; but in my view the conclusion is inescapable that, especially since 1984, the major western governments have been driven to a more pro-active stance by a broad consensus within policy-making and opinion-influencing circles that national interests were no longer adequately served by existing approaches to the problem.

Equally, however, those who welcome this shift in policy, and particularly those who seek to effect total western disengagement from South Africa would be wrong to assume that the trend will necessarily continue. If it turns out to be so, it will be less the result of the perpetuation of misconceived ideas or of ethical imperatives than of a predominant view within western governments that real and widespread western interests continue to be better satisfied by this policy stance than by any other approach to the problem.

The aftermath of Soweto: 1976-1984

In order to understand how and why the change in western policies came about, it is first necessary to look back at the determinants of the policies which prevailed prior to 1984.

On the one hand, there were two sets of influences working towards a more interventionist policy towards South Africa. First, there were the long-standing efforts by anti-apartheid organizations to politicize western economic links with South Africa by arguing that foreign trade and foreign investment necessarily helped to underpin apartheid policies and structures. These efforts, which were directed at urging western governments to embrace policies of sanctions and disinvestment, were redoubled in the years immediately following the 1976 uprising in Soweto.

Secondly, the very fact of that uprising, coupled with the political and military developments taking place elsewhere in Southern Africa in the mid-1970s, took the question of western economic interests in the region well beyond the confines of narrow anti-apartheid interests and placed it firmly on the political agendas of wider — and predominantly western — interest groups. With memories of the unsettling experience of the Opec oil embargo of 1973-1974 still relatively fresh, the Soweto uprising began to generate serious reassessments of the long-term security of the West's overall economic, strategic and political interests in the sub-continent. This was

reflected particularly in a veritable explosion of investigations into the strategic minerals 'dependency' issue.¹

Even among western analysts who were sceptical about both the desirability and workability of a policy of wholesale disengagement, the necessity for the West to begin to 'distance' itself from at least some of the potential dangers posed by the growing racial conflict in the region was becoming increasingly apparent. To quote but one example, in a paper which I wrote for the Royal Institute of International Affairs in 1982 and in which I sought to underline some of the dilemmas and contradictions which would be inherent in a policy of sanctions, I none the less argued also that it would make political and economic sense for the West to adopt a more coherent and comprehensive strategy to insure against future disruption of its interests.²

In my view, in addition to continuing diplomatic efforts, the need was for a two-pronged approach to economic relations which would not only reduce western reliance on South and Southern Africa for supplies of strategic minerals, but which would also show the West to be less equivocal in its support for 'progressive' social, political and economic change in the Republic. I saw the former part of the strategy as a means of rendering the West less of an economic hostage to events in the region, by providing it with at least some room to manoeuvre in the event of interruptions to strategic mineral supplies. A coordinated programme of stockpiling of the relevant minerals was clearly a necessary, though not a sufficient, condition for achievement of this objective. The second part of the strategy was intended to leave the West less open to accusations that, through its economic links with South Africa, it was acquiescing in, even supporting, apartheid policies. It included the provision of conditional economic assistance to South Africa and rigorous official enforcement of codes of conduct for foreign investors.³

The logic of non-intervention

On the other hand, during the post-Soweto period, the arguments for doing relatively little about economic relations with South Africa remained considerable. In terms of real western interests, four broad points were relevant:

First, there were the substantial direct economic benefits which all the major western countries derived from their economic links with South Africa. These benefits included jobs, export markets, strategic mineral and other imported supplies for domestic industries, imports of consumer goods, and profit, dividend and interest earnings on the considerable stock of western direct and indirect capital investment in South Africa.

In global terms, these links were generally relatively small. This was particularly true in relation to total western export sales and import purchases. Thus, between 1975 and 1981, South Africa's share of total

merchandise exports from the EEC and USA did not exceed 1,4 per cent. Similarly, during the same period, South Africa provided at most 2,7 per cent, 1,4 per cent and 0,8 per cent of the total merchandise imports into the UK, USA and West Germany respectively.⁴ In relation to direct foreign investment, only in the case of the United Kingdom was the figure proportionately large — 10 per cent of world-wide direct foreign investment in 1979, compared with only 1 per cent for the United States.⁵

None the less, these economic links were important for the sectors in which they were relatively highly concentrated.⁶ Moreover, those interest groups who benefited directly from these links naturally left legislators and other policy-makers in no doubt about the extent to which they stood to lose from any policy of disengagement.⁷ Their arguments were well-articulated and were conveyed through effective political lobbies, and they struck a responsive chord within governments concerned about the domestic political consequences of the climate of rising unemployment and sluggish economic growth which characterised most western economies in the late 1970s and early 1980s.

Secondly, the argument that both South and Southern Africa were strategically important to the West continued to hold wide currency. This was due not only to the presumed role of the Cape sea route in military terms, but also to the concern which I have already mentioned about security of supplies of strategic minerals, especially those (like chromium, manganese, platinum and vanadium) for which the Soviet Union was the only realistic alternative source.

Western governments, however, were uncertain about the appropriate policy responses to this strategic problem. Even the precise nature of the problem was unclear: informed opinions both on the extent of western dependence and on the consequences of supply interruptions differed substantially;⁸ no such interruptions appeared to be imminent; and the risk of future interruptions was extremely difficult to assess. Consequently, there was no unified western view even on the *need* for an insurance policy, in the form of a coordinated stockpiling, substitution, conservation and supply-diversification programme, let alone a basis for resolving the even trickier problems of implementing joint action, allocating the cost burden and agreeing on rationing procedures in the event of supply interruptions.⁹ In any event, a stockpiling programme would have necessitated more, not less, reliance on South Africa, at least in the short term.

It followed from all this that the primary concern of western policy-makers was to minimize the possibility of *internal* disruptions to mineral supplies from Southern Africa. This objective placed a high premium on continued political stability, which was interpreted as requiring a gradual and relatively peaceful process of political change. Since there was a profound scepticism

among most policy-makers about the capacity of economic sanctions to promote such a process, the value of substantially heightened external economic pressures seemed very dubious.¹⁰

Thirdly, western political concerns about Southern Africa during the post-Soweto period were far from being limited to the question of what to do about apartheid. Much diplomatic effort was being invested in bringing an end to UDI and towards achieving a relatively peaceful transition to majority rule in Zimbabwe. In addition, the five-nation western contact group was actively pursuing a solution to the Namibian impasse. In both instances, it was recognised that South Africa had an important — indeed crucial — role to play. Not surprisingly, therefore, there was a continuing belief in the need for western foreign policy to be 'even-handed' as between black and white interests in the whole of Southern Africa.¹¹ It was, moreover, impossible to foresee exactly when or how the conflict in South Africa would be ultimately resolved. This uncertainty, together with the desirability of preserving western influence and interests in the wider Southern African region in the longer term, further underlined the perceived need to keep all options open and to avoid gratuitous interferences with mutually beneficial economic relations.

Fourth, the international political pressure on South Africa's major trading partners to take sides in the country's racial conflict by threatening to inflict damage on the economy and hence to undermine white prosperity were not at that stage supported by corresponding pressures from internal South African sources with real interests at stake. On the contrary, in so far as the views of South African interest groups were being articulated abroad, they emanated from predominantly white interests who naturally stressed the potential costs to Blacks and who were overwhelmingly opposed to what they viewed as western 'interference'. Instead, the pressures on the West were coming largely from relatively small South African exile groups, whose own political interests in the matter were self-evident, and from countries with little or nothing to lose — in some instances, perhaps, with something to gain — from economic disengagement by SA's major trading partners. It was, therefore, relatively easy for those western governments who did have serious and widespread interests to protect, to discount, if not dismiss, these pressures.

For all these reasons, western policies towards economic relations with South Africa underwent relatively little change in the immediate post-Soweto years. The attitudes of the major western governments were still dominated largely by the perceived needs and articulated demands of relatively narrow domestic constituencies with considerable vested interests in maintaining the status quo. Moreover, there was relatively little conflict between strictly economic interests and more general political and strategic considerations.

In short, the South African issue represented a typical example of the tendency in the West, as DeAnne Julius has recently put it, for 'external economic influences [to be] considered so important that they dictate national positions (or more often the lack of them) on international political issues'.¹²

The need for alternative policy options

Even so, western governments were not — indeed could not be — totally oblivious either to the continuing political pressures or to the sound arguments adduced in favour of a more 'distant' policy stance. Throughout the post-Soweto period concern was growing among at least some western policy-makers about the restricted availability of alternative policy options. Given that the possibility of military intervention in South Africa was unanimously ruled out by western governments, the choice was widely perceived as being between disengagement on the one hand and 'doing nothing' on the other. Few western governments, as I have said, were keen on travelling the former route. At the same time, in the light of the continuing accusations of western complicity with apartheid policies, there was considerable unease about the only apparent alternative. This discomfiture generated a continuing search for other policy options.

In my view, this search was hampered by the fact that the balance of intellectual opinion was weighted against the type of interventionism which was being urged upon western governments, especially from anti-apartheid quarters. Michael Finger has recently coined the phrase, 'ideas count, words inform'. He has also reminded us of John Maynard Keynes's long-overlooked distinction between 'inside' and 'outside' opinion, i.e. between the understanding and conceptions of policy-makers on the one hand and of the wider public on the other hand, in respect of often technically difficult policy matters.¹³

At the time, both inside and outside opinion combined to hinder the emergence of a satisfactory alternative. Apart from the widespread conviction that sanctions were neither feasible nor desirable, neither western policy-makers nor western public opinion were ready to be persuaded by demands that they should make economic relations contingent upon the pursuit by South Africa of morally acceptable policies. South Africa was widely — and rightly — viewed internationally as offending against civilized and accepted norms of behaviour. But, apart from the fact that it was not regarded as being unique in posing problems of human rights and political oppression in international relations, there was considerable reluctance to countenance deliberate manipulation of economic relations as a means of altering that behaviour.

In the case of 'inside' opinion, this situation undoubtedly had much to do with understanding of the general body of prevailing legal, political and economic theories of international economic relations. These theories offered

relatively little scope for arguments that, outside of a state of war, one country should employ the leverage afforded by its economic links with another country to influence, let alone determine, the latter's internal social and political policies. Thus, international law placed great emphasis on respect for national sovereignty and for the concept of domestic jurisdiction over internal policies; political philosophers had relatively little to say about the rights and obligations of one government in relation to the subjects of another; and international trade theory implicitly assumed an identity of interests between a government and its body politic — if 'the country' benefited from trade then, by extension, so did *all* its citizens. Moreover, the ideology of free trade which, at least in principle, guided western foreign trade policies and underlay the functioning of most major international economic institutions — such as the IMF, the World Bank, the GATT and UNCTAD — generated a presumption in favour of extending rather than contracting the scope of international economic relations.

There have, of course, always been important exceptions where convincing arguments can be made for setting aside the non-interventionist norms of behaviour in the international political economy. Thus, governmental interferences with foreign trade and financial flows in pursuit of national security objectives have acquired a high degree of legitimacy.¹⁴ American embargoes against exports of western technology to the Soviet Union represent a typical example. Similarly, the immigration policies pursued by every national government are universally recognised as legitimate even though they offend against the principle or the objective of perfect mobility of productive resources and, in many instances, are highly discriminatory both in principle and practice. For present purposes, however, the most important examples are to be found in policies of protectionism. Governments frequently intervene in international economic relations in an endeavour to induce other governments to change their economic (usually their trade) policies. In virtually every case, however, the decision to intervene arises from circumstances in which the governments concerned can claim that their own national interests are at stake and that protection of these interests overrides the benefits of non-intervention.

Moreover, the restraints on such interventions are considerable. This is true even though the demands of domestic interest groups can provide governments with powerful incentives to act. All over the non-socialist world, for example, employers and unions in import-competing industries can — and frequently do — demand protection against competition from foreign producers. But these demands must be balanced against the interests of others (such as consumers or exporting firms) who might be disadvantaged by increased protectionism. In addition, the rules and procedures of international institutions (like the GATT and UNCTAD)

provide a framework for ensuring that interferences with trade are regulated and do not threaten unduly the legitimate interests of trading partners.

Seen in this context, therefore, the philosophical and theoretical arguments for intervening to promote disengagement from South Africa appeared weak at best. The argument in favour of disengaging was based partly on moral considerations and partly on assertions about long-term western political interests, but it was extremely difficult for its proponents to demonstrate that there were significant interest groups within western societies who stood to gain from such a policy. Moreover, inside opinion on the matter was largely reinforced by outside opinion in that there was no evidence of widespread support for intervention among the general public.

The genesis of constructive engagement

Thus, the reasons why western economic policy towards South Africa was slow to adapt to the mounting pressures for action were not limited to questions of practical policy, but were reinforced by the influence of the prevailing intellectual climate on the policy preferences of western policy-makers. In the event, it was the South African government itself which appeared to provide the key — at least in principle — to the resolution of the West's policy dilemma. South Africa's apartheid reform process, which had got under way in the late 1970s, provided renewed grounds for challenging the assertion that economic growth and apartheid were necessarily mutually supportive. There was, of course, a strong case for arguing that the reforms were merely an attempt to 'modernise' apartheid — an argument which was forcefully presented in many journals, both academic and popular. But there was now also a respectable case to be made in favour of the opposing viewpoint, namely that perpetuation of apartheid policies was becoming increasingly incompatible with economic growth and hence with the protection of white prosperity. More importantly, from an external perspective, it provided a justification for perpetuating foreign trade and investment which were widely recognised (on both sides of the ideological divide) as being crucially important for continued growth.

It was this latter argument about the potential political benefits of economic growth which contributed to the genesis of the American-led policy of 'constructive engagement'. Constructive engagement was, of course, essentially a political policy intended to give encouragement to the reformist elements within the Botha government. But it also had an implicit economic policy component in that it was accompanied by official encouragement of voluntary codes of conduct for western-owned firms doing business with or in South Africa. The primary purpose of the codes was to encourage western firms to promote the process of change in South Africa. This was to be achieved both by reducing the impact of apartheid

within the labour market and by increasing black economic power, initially through higher wages but subsequently — and more significantly — through the growth of black trade unions and the extension of education and training. But the codes also had a subsidiary purpose, namely to deflect criticism of western support for apartheid policies.

To its supporters, the constructive engagement/codes of conduct approach thus offered — or appeared to offer — not only an intermediate policy between formal interventionism and total inaction, but also the hope of some return on continuing western economic involvement in South Africa.¹⁵

The weaknesses of the minimalist approach

Constructive engagement (and the promising rhetoric which accompanied it) notwithstanding, the West's overall policy stance in respect of economic links with South Africa was still essentially minimalist in character. As Prof. Dennis Austin has aptly put it, the major western governments had opted for a policy of 'moderate inaction'.¹⁶ In the event, as the apocalyptic events of 1984–1986 so graphically demonstrated, it failed to resolve the fundamental western dilemma of the absence of a viable intermediate policy option. In part, this was because the minimalist approach was itself misconceived in some important respects; but it was also because some of the original justifications for it were becoming increasingly invalid or irrelevant.

For a start, the whole notion of 'moderate inaction' overlooked the possibility — indeed the probability — that, sooner or later, circumstances would emerge in South Africa itself which would render unavoidable significant changes in economic relations with the West. It was always on the cards that a major increase in political instability in South Africa would necessitate such changes either because of international pressures, both political and economic, on South Africa's major western trading partners or because of direct threats to western economic and perhaps even strategic interests in both South and Southern Africa. Yet, the earlier failure to devise a more coherent and more 'arm's length' strategy meant that, when circumstances did begin to deteriorate, the West was almost wholly unprepared for the consequences.

Secondly, the relative economic importance of South Africa to the industrialized countries was beginning to dwindle further in several respects. Although trade with South Africa was still growing in absolute terms, it was beginning to play an even smaller proportionate role in the total trade of the industrialized world. Thus, by the early 1980s, South Africa's share of EEC and US exports had fallen below 1 per cent.¹⁷ Perhaps even more importantly, in the context of global economic relations, South Africa was becoming increasingly insignificant. For example, the almost exponential

growth in international capital flows, especially via the burgeoning Eurocurrency markets, had begun to dwarf the importance of South Africa as a repository for both direct and indirect foreign investment. Similarly, measured against the potential havoc which the international debt crisis threatened to wreak on the international political economy, South Africa likewise was beginning to pale into relative insignificance.

It remained true, of course, that South Africa was still very important for those individual western enterprises which were heavily involved with it. Even here, however, changes were also occurring. The South African economy had gone into prolonged recession in late 1981 and the consequent reduction in profits, coupled with the beginning of the decline in the international value of the rand, helped to marginalize the importance of their South African investments for a growing number of multinational corporations (MNCs). Simultaneously, the combination of the well-known 'hassle factor' and adherence to voluntary codes of conduct, was raising the direct costs to many MNCs of maintaining trade and investment links with South Africa. The additional costs included higher wages, increased spending on black employee support programmes, increased allocations of resources to social responsibility programmes, and greatly increased administrative burdens both within their South African and their head-office operations. Many foreign firms — particularly those that did subscribe to the codes — regarded these additional costs as unavoidable, and doubtless in some instances even as desirable, investments for the future benefit of their South African operations. Others, however, were clearly more doubtful about the potential returns on these expenditures, and some, in consequence, chose the disinvestment option.¹⁸

Thus, by the time the crisis in South Africa erupted in the second half of 1984, the West's general economic stake in the country had already lost some of its importance. It was not much longer before it had also lost much of its earlier apparent indispensability. This was largely the result of the increased external pressures for disinvestment, especially in the US, where two interrelated campaigns were operating. In the 'divestment' (or 'divestiture') campaign, shareholders, unions, churches, students and others were successfully putting pressure on pension funds and other institutional portfolio holders to dispose of their South African-related investments.¹⁹ In the procurement legislation campaign, state, city and county governments were persuaded to adopt measures variously prohibiting or restricting dealings with companies with interests in South Africa.²⁰ Since the losses which could be incurred through the denial of state and city contracts were frequently far larger than the profits which were being earned from their South African operations, many firms were in fact induced to disinvest. In Britain, too, there was a very substantial (if less spectacular) increase in the public pressures on both local government and corporate decision-makers to

sell of South African-related investments and to shun trade with SA.²¹ The effectiveness of these pressures was reflected in an increasing outflow of long term foreign capital, the net result of which was, of course, to reduce further the size of the western stake in South Africa.²²

A third element in the changing situation was that a parallel reassessment of South Africa's strategic importance was beginning to take place in western policy-making circles. In general terms, there was an easing of western concern about Soviet intentions in Southern Africa.²³ Few analysts in the West had ever really swallowed Pretoria's 'total onslaught' thesis, but the possibility of a greatly increased Soviet presence in the region was naturally not viewed with equanimity. Now, however, it was becoming apparent that Soviet adventurism in Africa, not to mention Afghanistan, was paying relatively few dividends and was imposing increasingly severe political and economic costs on Moscow. There was also the evident and growing disenchantment with the Soviets among African governments in general, (and reportedly vice-versa) and Southern African governments in particular. Finally, notwithstanding some continuing worries in Nato circles, there was also a growing tendency in the West to de-emphasise the strategic importance of the Cape Sea route: in any reasonable scenario about a future, non-nuclear East-West war, the likelihood seemed small that the Soviet Union would want to interdict shipping in the vicinity of the Cape, rather than in the northern hemisphere itself.²⁴ Together, all these factors suggested that the Soviet threat in Southern Africa had been overstated.

But there was now also growing scepticism about the narrower argument, also propagated by South Africa, that a white-led government in Pretoria was the West's only insurance against disruption of mineral supplies. There were two reasons for this scepticism. First, following the successful weathering of the second oil price shock in 1979, there was greatly increased confidence in the capacity of markets to cope with shortages, supply disruptions and major price changes. Secondly, it was now possible to argue a case which was the exact reverse of the South African argument: it could now be postulated that an intransigent white government in Pretoria, which set its face against negotiations on any terms other than its own, represented a greater threat to strategic mineral supplies in the medium to long term than a black nationalist government. A black government in Pretoria would have as much interest in selling its mineral wealth as does the present white regime but a disaffected, still disenfranchised and increasingly frustrated black opposition would have an interest in disrupting production, whether through strikes or through more direct methods such as arson and sabotage. The violent upheavals of the past few years, and the perception that the mining industry was becoming the industrial battleground, merely underlined the argument that the longer an accommodation between Blacks

and Whites in South Africa was delayed, the greater the risk to western interests.

✓ In short, the earlier coincidence of interests between western and South African policy-makers with regard to the need for gradual political change in the Republic was beginning to break down. It was not that any serious policy-maker in the West wanted to see a violent revolution in this country but the South African insistence on 'evolutionary' change was beginning to look more and more like a smoke-screen for avoiding the truly fundamental changes which, in the long run, were necessary to protect western interests. ✓

The fourth weakness of the minimalist position was that it overlooked the possibility that the balance of public opinion in the major western countries might shift towards the view that there did exist a broad national interest in disengaging from South Africa. I have already referred to the successes of the 'divestiture' and procurement legislation campaigns in the US and elsewhere, especially in 1984 and 1985, in spurring both local governments and corporations into action. This shift in outside opinion meant that it was no longer so easy for national policy-makers to ignore the pressures for action, even when inside opinion was still largely reluctant to embrace the disengagement option. Furthermore, by providing policy-makers with the hitherto missing rationale for incurring the costs of disengagement, it began to outweigh the pressures against such a policy. (It is perhaps worth noting that by this stage, some of the potential costs were beginning to look less significant, at least in political terms. Electoral outcomes in some of the major western countries suggested that the political liability of higher unemployment was less severe than most governments had believed or feared.)

It was in this shift in public opinion that moral issues played their most prominent role. Three factors were of particular importance here: the repressive and over-reactive actions of the South African security forces in the black townships; the strong pro-sanctions views expressed by prominent internal black South African representatives and personalities; and the attitudes and behaviour of the South African government, especially in scuppering the mediation efforts of the Commonwealth EPG, in destabilizing the Front Line States, and in repeatedly raising and then dashing hopes of significant reforms and other conciliatory policy measures. These developments combined to reinforce western perceptions of white South African intransigence, ruthlessness and duplicity, and of black South African hopelessness and helplessness. Together, they effectively cut the ground from under the feet of anyone who argued that disengagement would hurt Blacks more than Whites. They also undermined the argument that South Africa should not be singled out from all the other transgressors against human rights.²⁵ Increasingly, South Africa's claim that it was a bastion of

western civilized values in Africa was not only looking manifestly untrue, but was also seen as tarring the West with the same brush.²⁶

Attempts by inside opinion to resist the rising clamour for western governments to act were not very successful. In some respects, they proved to be counterproductive. In particular, the tendency of many western politicians to decry the use of sanctions against South Africa and, in the case of some leaders, to elevate their opposition to an apparent article of faith, was increasingly seen to be disingenuous. No amount of rhetoric could wholly obscure the fact that western governments frequently employed economic sanctions in a variety of other contexts and locations.²⁷ Indeed, the case of US-sponsored sanctions against Libya in 1985 demonstrated clearly that arguments about the effectiveness of sanctions and about the nature of their impact upon the target state could sometimes be secondary to the political imperative of 'sending a message' to governments which offended against the norms of international behaviour. Besides, the same leaders and governments who opposed sanctions against South Africa continued to endorse the earlier international embargoes on exports of oil and arms to South Africa. These inconsistencies were not lost on western public opinion and they further helped to undermine the case against South African sanctions.

The failure of constructive engagement

The final flaw in the West's post-Soweto policy position lay in constructive engagement itself. Much has been written about the political aspects of the failure of this policy.²⁸ Here I want to concentrate on the economic aspects.²⁹ The architects of constructive engagement failed to recognise that the use of western *economic* leverage against South Africa, for whatever purpose, necessarily implied a two-step process: first, the influence by western governments on the behaviour of largely non-governmental western economic actors; and second, the impact of these actors upon conditions and policies in South Africa. Most of the debate about constructive engagement concentrated on the South African end of this process, and particularly on the vexed and unresolved question (to which I have already referred) whether economic growth — and the contribution made to it by foreign resources — was or was not supportive of apartheid. There was little substantive discussion about the first step in the process, namely the relationship between the policies of western governments and the behaviour of western economic investors in South Africa.

Nowhere was this lack in understanding more apparent than in governmental attitudes to the voluntary codes of conduct which, it was hoped, would give more content and substance to constructive engagement itself. Being voluntary, they relied almost exclusively on public pressure and 'moral suasion' for their impact, with official attitudes stopping well short of

the employment of fiscal incentives and penalties, such as subsidies and taxes, as a means of enforcement. Even in the EC, where the codes were supposed to be officially monitored, there was much criticism of governmental half-heartedness and of the reluctance to publicise the results. Indeed, the monitoring process reflected little official commitment to the aims and objectives of the codes. This non-interventionist approach to enforcement and monitoring of the codes effectively minimized their impact on economic and social conditions in South Africa and gave the lie to the claim that western governments were serious in their professed attempts to promote non-racialism and power-sharing within South Africa, even within the relatively narrow confines of the labour market.

In arguing this, I am not seeking to belittle the achievements of the voluntary codes which, in my view, were highly successful within their own limited capacities. Experience with the Sullivan Principles in particular has demonstrated that, where the necessary criteria and monitoring procedures are formally, if privately, institutionalized and are backed by organized lobbies and pressures, the impact of voluntary codes upon the behaviour of signatory firms can be considerably enhanced. However, the Sullivan experience in no way vindicates the *laissez-faire* attitude of western governments. The fact that many western-owned firms in South Africa did not — and still do not — fully subscribe to the objectives of the various codes severely undermined the benefits of the exercise and thereby exposed even the most committed signatories to the continuing charge that western investment in South Africa was not contributing to real reform. I therefore have little doubt that the limited successes of the voluntary codes point to what more formalized western pressures might have achieved had they been applied with conviction from the outset.

All this raises an obvious question: given the increasing political importance of the South African issue and the desire on the part of western governments to rid themselves of the allegation that they supported apartheid policies, why did they pass up the opportunity to act forcefully in support of a potentially 'positive' policy (as opposed to the negative approach of disengagement)? After all, western governments, even those most ideologically inclined towards *laissez-faire* economic policies, frequently made both fiscal and regulatory interventions in markets in pursuit of a whole range of 'socially desirable' policy objectives. In my view, there are two reasons why they did not do so in the case of the employment practices of western-owned firms in South Africa. First, as I have already explained, there was an absence of real domestic interest in committing significant resources to the issue. There may have been some useful diplomatic mileage to be obtained, but there were few perceptible electoral, economic or ideological purposes which would thereby have been served. In this sense, inaction was entirely understandable.

Secondly, in coming to this view, western governments tended merely to accept the predominant judgement of international markets on the issue. Prior to the mid-1980s, this judgement clearly was that the likelihood either of revolution in South Africa or of enforced western disengagement was too remote to warrant heavier discounting of the expected returns on trade with, and investment in, the Republic.

Ironically, therefore, by failing to offer their own guidance to the marketplace, the major western governments merely acted to reinforce the prevailing views.

In doing so, they overlooked the fact that, except in the case of foreign aid, the majority of economic relationships between nations are conducted, not on the basis of centralized government-to-government dealings, but on the basis of the decentralized decisions of innumerable 'individual' economic actors, i.e. firms, traders, financial institutions etc. These actors operate within a complex multi-dimensional framework made up of institutional and policy parameters as well as of economic variables. The determinants of the commercial behaviour of multinational firms thus include not only market structures, prices and risks but also the whole gamut of political and legal arrangements and restraints governing economic transactions both within and between states. They also include the perceptions and expectations which firms hold of official intentions with regard to monetary, fiscal, trade and exchange rate policies. As these variables and parameters change, so the various market participants adjust to them. To some extent, this is a continuous process, but major adjustments involving significant costs are likely to be deferred until the benefits of adjusting are clearly apparent. Consequently, once patterns of behaviour become established they acquire a degree of inertia which can be overcome only by substantial changes in their underlying determinants. This was as true of the employment practices of foreign investors in South Africa as of any other aspect of their commercial behaviour. And, since voluntary codes of conduct, unsupported by formal criteria, incentives and penalties, and lacking clear official policy commitments, had only a limited impact on firms' decision variables, they could produce only limited results.

In short, constructive engagement may, in principle, have provided moral justification for perpetuation of the West's economic links with South Africa. In practice, however, it proved to be essentially an empty box. It has always struck me as highly ironical that, by virtue of their very reluctance to adopt a more interventionist approach at the outset. The major western governments were ultimately forced to adopt the one form of economic intervention which they wanted most to avoid, namely legislated sanctions.

To appreciate this point fully, it is instructive to consider the evidence provided by the so-called 'private' sanctions, typified by the actions of the international banks in precipitating the South African foreign debt crisis in

August 1985 and reflected in the subsequent rush of disinvestment decisions. All firms undertake periodic re-appraisals of the expected risks and returns on their operations and western firms operating in South Africa have been no exceptions, not least because of the political pressures to which they have been subjected. But, for as long as their re-appraisals revealed that their investments were commercially viable, and for as long as the institutional, economic and political elements of their operating environment remained relatively constant, they were inclined to discount fairly heavily the potential net benefits of responding to the pressures for disengagement.

To be sure, disinvestment had been taking place at an accelerating pace since the Soweto uprising. I have already touched on some of the reasons for this, namely the long recession, the declining value of the rand and the rising costs of countering the political pressures. In addition, the disinvestment trend in fact was assisted by the decision of the South African authorities to liberalize exchange controls in February 1983 in that a 'window of opportunity' (as an executive of one major British firm described it to me) was created to withdraw assets from South Africa without risking the additional capital losses which the earlier dual exchange rate system might have entailed.

Even so, prior to the middle of 1984, the number of western firms who judged it appropriate to sever or reduce their links with South Africa was relatively small. The subsequent rapid descent into internal political and economic crisis, coupled with the heightened international political pressures, both formal and informal, on foreign firms, particularly in American markets, clearly represented watersheds in the process. There can be no doubt that these developments wrought such major and adverse changes in the firms' perceptions of the relationships between the benefits, costs and risks of their South African-related operations, that the trend towards disinvestment became a stampede.

It is widely believed that the firms concerned were making 'political' rather than 'economic' or 'commercial' decisions. In my view, this belief entirely misses the point. Firms do not normally make 'political' decisions; they make commercial decisions. However, in coming to these decisions, they are influenced — as I have already indicated — by political considerations in so far as these impinge upon the relevant decision variables.

To my mind, therefore, the lesson to be drawn from the experience of disinvestment from South Africa is that a significant shift in 'outside' opinion was instrumental in effecting something that official policies signally failed to achieve, namely major changes in the behaviour of firms.

Conclusions

It is clear from this survey that a number of diverse factors operated to undermine the apparent coherence and relevance of, as well as the

justification for, the post-Soweto policies of South Africa's major trading partners on the question of economic relations with the Republic. Some of the reasons are to be found in secular developments, such as South Africa's declining international economic and strategic importance; other factors, such as the sea-changes in public opinion were largely induced by developments within South and Southern Africa itself and especially by the political and economic crises of 1984-1986. Overall, the West's policy stance was exposed as being inadequate and inappropriate. But perceptions of the nature, location and importance of western national interests were crucial both in determining the original policy stance and in generating the shift towards a package of policies which were variously more confrontational, more interventionist and more distant than had previously been the case.

This shift has been evident not only in those western industrialized countries with relatively limited economic relations with SA, but also — albeit in different forms and degrees — among all of South Africa's major trading partners. It has clearly been greatest in the US, where the combination of concern and action at grassroots level and the highly decentralized and dispersed structure of government resulted in the issue being infused into all levels and tiers of the political process. This base provided effective levers on the decisions both of corporate and ultimately of national policy-makers. The quintessentially American nature of the interests involved is summed up in the following extract from the report produced early in 1987 by the Secretary of State's Advisory Committee on South Africa:

Our most fundamental interest in South Africa is to assist in ending a political and legal system in which over 80 percent of the population are denied basic individual political rights on the basis of race alone. Our history, values and institutions identify Americans with people seeking political freedom and civil liberties throughout the world . . . Moreover, Americans have a significant stake in South Africa because of the potentially serious domestic ramifications that a bitter and bloody race war there could have within the United States. A protracted armed conflict between whites and blacks could create racially divisive political tensions among Americans.³⁰

Of particular note here is the absence of any reference to American economic interests. This was not because such interests did not exist, but because, in the view of this influential group, they were outweighed by the concern with the other issues articulated.

In Britain, the process has been more diffuse for several reasons: the structure of local government afforded less capacity to affect decisions at that level; at the national level, legislative and executive authority are less clearly divided than in the US; and the public concern was driven rather less by domestic and rather more by internationalist, political considerations than was the case in America. This latter factor is reflected in the stress which the 1986 report of the House of Commons Foreign Affairs Committee laid on the

Commonwealth dimension and on other international pressures in addition to the domestic political concerns which shape British policy towards South Africa. As a result of all these factors, the pressures on British policy-makers were less formal and less firmly institutionalised.³¹

In addition, of course, the pro-sanctions campaign in Britain — and indeed internationally — has had to contend with the 'conviction politics' practiced by Mrs Thatcher. But those — especially in South Africa — who take heart from Mrs Thatcher's anti-sanctions rhetoric should understand that she is motivated primarily by her own conception of where British interests lie. Her concern is not to protect Pretoria from its follies or to shield white South Africans from the consequences of their political choices. Her concern is to protect British interests as she sees them. Those interests are not confined to South or Southern Africa. They encompass Britain's role and position within the wider international community and in the international political economy. It follows that, even in Mrs Thatcher's case, there is no absolutist adherence to an anti-sanctions position regardless of developments in South and Southern Africa. Indeed, as I have already pointed out, the record of the British government's actions shows that the principle of applying sanctions has in fact been conceded.

My point therefore is that governments are concerned primarily with their own national interests. The decision of the West German government to participate in the 1986 EC sanctions, however reluctantly, further demonstrates the point. The same applies to the increasing concern in Israeli and in Japanese policy-making circles about the implications for their national interests of their economic relations with South Africa, even though in both instances there is an obvious reluctance to take decisive action.³²

This point needs to be clearly understood on all sides of the political divide in South Africa. Sadly, it is far too little appreciated. Both supporters and opponents of the South African government regularly report feelings of betrayal by the West. In recent days, for example, both the State President and the Minister of Foreign Affairs have fulminated against the US and the EC for acting in their own interests rather than in the interests (as they perceive them) of South Africa and South Africans.³³ Similarly, opponents of the South African government continue to feel betrayed by the apparent unwillingness of the country's major trading partners to exercise real influence over it.³⁴ Ironically, they too claim, in tones varying from hurt to outrage, that the West is merely pursuing its own interests without regard for the consequences for South Africa and its inhabitants. To me it is inconceivable that western governments could or should behave in any other way.

Of course, this still begs the question of which policies will, in the final analysis, provide the greatest degree of protection of those interests. We have seen that perceptions on this matter have shifted significantly in the past few

years. There is some evidence that the pendulum may be beginning to swing back again in some quarters, although my own assessment is that the momentum towards increasing economic isolation of South Africa from its traditional trading partners is still overwhelming. The answer will be provided ultimately by the outcome of the battle for both inside and outside opinion in the West. The course and ferocity of this battle will naturally be influenced by events and outcomes in South and Southern Africa, but those events and outcomes are relevant less for their own sake and for the way they affect the interests of South Africans, than for the way they impinge on the contending western interests. A great deal of rhetoric will accompany this process. But in the final analysis it is real interests that will count.

Notes

1. L E Andor, *South Africa's Chrome, Manganese, Platinum and Vanadium: Foreign Views on the Mineral Dependency Issue 1970-1984: A Select and Annotated Bibliography*, Bibliographical Series no. 13, South African Institute of International Affairs, Johannesburg 1985, lists almost 600 entries.
2. Jesmond Blumenfeld, 'Economic Relations and Political Leverage', in J Barber, J Blumenfeld and C R Hill, *The West and South Africa*, Chatham House Papers no. 14, Royal Institute of International Affairs/Routledge and Kegan Paul, London 1982.
3. *Ibid.*, p. 89 et seq.
4. Strictly speaking, the trade figures apply to the Southern African Customs Union, which includes Botswana, Lesotho, Swaziland and Namibia in addition to South Africa itself. See United Nations, *Yearbook of International Trade Statistics*, vol. 1, 1980, 1981, 1982, Country Tables and Special Table B.
5. Foreign Policy Study Foundation, Inc, *South Africa: Time Running Out*, (Report of the Study Commission on U.S. Policy Toward Southern Africa), University of California Press, 1981, p. 134.
6. On the export side, South Africa was an important market for transport equipment, machinery and electrical goods. On the import side, South Africa was naturally very important as a supplier of mineral products. See, for example, Dirk Neehtling, 'Minerals and Energy', Table 2.6, in Jacqueline Matthews (ed.), *South Africa in the World Economy*, McGraw-Hill, Johannesburg 1983.
7. See, for example, United Kingdom South Africa Trade Association (UKSATA), *British Trade with South Africa: A Question of National Interest*, London c. 1979.
8. Blumenfeld, *op. cit.*, pp. 63-66; Robert S Jaster, *Southern Africa in Conflict: Implications for U.S. Policies in the 1980s*, American Enterprise Institute for Public Policy Research, Washington D. C. 1982, pp. 23-27.
9. Blumenfeld, *op. cit.*, pp. 89-90 and Appendix.
10. cf. James Barber & Christopher R Hill, 'The Political Problem', in J Barber et al, *op. cit.*, pp. 15-16.
11. Chester A Crocker, 'South Africa: Strategy for Change', *Foreign Affairs*, Winter 1980-81, pp. 323-351; see also interview with Chester Crocker in *Leadership South Africa*, 1984, no. 3, pp. 41-47.
12. DeAnne Julius, 'Britain's Changing International Interests: Economic Influences on Foreign Policy Priorities', *International Affairs*, vol. 63, no. 3, Summer 1987, p. 375.
13. J Michael Finger, 'Ideas Count, Words Inform', in R H Snape (ed.), *Issues in World Trade Policy*, Macmillan, London 1986, ch. 13.
14. cf. Susan Strange's remark that 'an appeal to the exigencies of security . . . takes priority over all other claims on state policy' from 'What about International Relations?', in Susan Strange (ed.), *Paths to International Political Economy*, Allen and Unwin, London 1984, ch. 9, esp pp. 184-186.

15. For a history of constructive engagement, see Christopher Coker, *The United States and South Africa, 1968–1985: Constructive Engagement and its Critics*, Duke University Press, Durham NC, 1986.
16. Dennis Austin, *South Africa 1984*, Chatham House Papers no. 26, Royal Institute of International Affairs/Routledge and Kegan Paul, London 1985, p. 62.
17. United Nations, *Yearbook of International Trade Statistics*, vol. 1, 1983, 1984, 1985, Special Table B.
18. Bernard Simon, 'Looking at the Codes', *Leadership South Africa*, 1984, no. 3, pp. 94–96.
19. For an early review of the achievements of the divestment campaign, see Southern African Editorial Services (Pty) Ltd, *The Disinvestment in South Africa Campaign in America*, 'Monitor' series on 'How others see issues crucial to Southern Africa', Sandton, August 1979. Cathy Bowers and Alison Cooper, *U.S. and Canadian Investment in South Africa and Namibia*, Investor Responsibility Research Centre, Washington D.C., May 1986, and *U.S. and Canadian Business in South Africa* provide comprehensive surveys of the state of the divestment campaign since January 1984.
20. See IRRC South Africa Review Service, *Divestment Action Roundup*, Investor Responsibility Research Centre, Washington D.C., November 1987 for details of legislative measures already enacted and pending.
21. The number of local authorities in the U.K. which have adopted some form of sanctions against South Africa is currently 162. 'Sanctions Movement Takes Knock', *Business Day*, Johannesburg, 20 November 1987.
22. The total net outflow of private long term foreign capital between 1978 and 1982 was R736 million. Between 1983 and 1986 it increased to R2 981 million. South African Reserve Bank, *Quarterly Bulletin*, June 1987, Table S-69 and p. 10.
23. Kurt M Campbell, *Soviet Policy Towards South Africa*, Macmillan 1986.
24. Jaster, op. cit., pp. 21–2. For a contrary view, see Robert J Hanks, *Southern Africa and Western Security*, Foreign Policy Report, Institute for Foreign Policy Analysis, Inc., Cambridge, Mass. 1983.
25. J E Spence, 'Why is South Africa so Unpopular Abroad?', *International Affairs Bulletin*, vol. 10, no. 3, 1986, pp. 19–32.
26. *Ibid.*, p. 30.
27. Gary Hufbauer and Jeffery Schott, *Economic Sanctions Reconsidered: History and Current Policy*, Institute for International Economics 1985, present case studies of more than one hundred instances of sanctions in the post-1914 period.
28. Coker, op. cit., Sanford J Ungar and Peter Vale, 'South Africa: Why Constructive Engagement Failed', *Foreign Affairs* Winter 1985–6, pp. 234–258.
29. The ensuing discussion draws in part on Blumenfeld, op. cit., esp. pp. 45–46, 75–77 and 80 et. seq.
30. Report of the US Secretary of State's Advisory Committee on South Africa, January 1987, p. 5.
31. House of Commons, *South Africa*, Sixth Report from the Foreign Affairs Committee, Session 1985–86, vol. 1, HMSO 1986, esp. paras. 13–33; also 'Observations by Government', HMSO Cmnd. 9925, esp. paras. 3–7.
32. Richard J Payne, 'Japan's South Africa Policy: Political Rhetoric and Economic Realities', *Africa Affairs*, vol. 86, no. 343, April 1987, pp. 167–178.
33. See, for example, 'European Sanctions Vindictive — Botha', *Daily Dispatch*, East London, 17 November 1987.
34. Shaun Johnson, 'Between the Devil and the Deep Black Sea? Black Perception of British Policy Towards South Africa', *International Relations*, vol. VIII, no. 5, May 1986, pp. 443–454; and David Hirschmann, *Changing Attitudes of Black South Africans Towards the United States of America*, Development Studies Working Paper no. 34, Institute of Social and Economic Research, Rhodes University, Grahamstown January 1987.

This article outlines progress in international codification of the law of the sea during the last twenty years, and examines South Africa's legislation relating to certain aspects of that law.

The contents largely comprise an abridged version of portions of the author's PHD Thesis 'The Law of the Sea: Changing Concepts of Sovereignty and Territoriality — A South African Perspective.' 1987.

Twenty years after: Where are we on the Law of the Sea?

On 17 August 1967 Dr Arvid Pardo, Malta's delegate to the United Nations, requested the inclusion in the agenda of the 22nd session of the General Assembly, of an item entitled 'Declaration and treaty concerning the reservation exclusively for peaceful purposes of the sea-bed and of the ocean floor, underlying the seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind'.¹

Dr Pardo's proposal did not constitute the first mention of the subject of the deep sea-bed in the UN General Assembly. Already on 6 December 1966 the UN General Assembly passed Resolution 2172 (XXI), requesting the Secretary-General to make a survey of the state of knowledge of the resources of the sea beyond the continental shelf, excluding fish, and of the techniques for exploiting these resources, and to undertake a comprehensive survey of marine science and technology.

In a Note of 31 October 1967² the Secretary-General stated that preliminary work in connection with the 1966 Resolution had led him to the conclusion that the question of the legal status of the deepsea resources and the question of ways and means of ensuring that the exploitation of those resources should benefit the developing countries constituted two major gaps in available knowledge meriting attention.

In his address to the UN General Assembly on 1 November 1967 in support of Malta's proposal, Ambassador Pardo stated that the present juridical framework clearly encouraged national appropriation of the sea-bed beyond the geophysical continental shelf, and he called for an effective international regime for the sea-bed and ocean floor beyond a clearly defined continental shelf. It was assumed at the time, but wrongly as subsequently became evident, that the continental slope would lie beyond the limits of

national jurisdiction.³ Pardo proposed that the oceans should be declared the common heritage of mankind, to be managed for the purpose of conserving ocean resources for the benefit of all.

As a result of Pardo's proposal an Ad-Hoc Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction was established in 1968. The Ad-Hoc Committee became the Permanent Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction, which over a number of years prepared the agenda for the Third UN Conference on the Law of the Sea (UNCLOS III) which began in December 1973.

The enormous range of topics to be included in the agenda of UNCLOS III resulted from the realization that there was a close relationship between the question of the nature of the regime to be established and that of the limits of the area to which it was to apply and, accordingly, real progress would not be made unless work proceeded simultaneously on both questions and that since the oceans constitute a global biological system, the competence of any international machinery should extend to the whole marine environment on a world-wide scale.

Agreement had been reached in the Sea-bed Committee on a set of legal principles which appeared in December 1970 as General Assembly Resolution 2749 (XXV), and related to the non-appropriability of the deep sea-bed and its resources.

Three further resolutions were passed on 17 December 1970: Resolution 2750A called on the Secretary-General of the UN to examine the impact of problems arising from the production of minerals from the deep sea-bed on the economic well-being of the developing countries.

The next resolution, 2750B, requested the Secretary-General to study the special problems of landlocked states relating to the exploration and exploitation of the resources of the deep sea-bed.

The final resolution, 2750C, called for a new Law of the Sea Conference in 1973 which would deal with the establishment of an equitable international regime, including an international machinery for the area and the resources of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction; a precise definition of the area; and a broad range of related issues including those concerning the regimes of the high sea, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and the contiguous zone; fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal states); the preservation of the marine environment (including, *inter alia*, the prevention of pollution); and scientific research.

The need for renewed discussion of all these 'related issues' had become urgent because the existing codification of the law of the sea, namely the four

1958 Geneva Conventions which had emanated from the first UN Conference on the Law of the Sea in 1958, were in danger of becoming outmoded through technological progress. In particular, the 1958 Continental Shelf Convention contains an unsatisfactory definition of the continental shelf area, where exploration and exploitation of oil and gas is mainly conducted; and the deepsea area which had become of increasing interest through research activities on manganese nodules had not been considered important in 1958. A second short UN Law of the Sea Conference had been convened in 1960 specially for the purpose of defining the width of the territorial sea, but had been unsuccessful.

A further factor which has necessitated a re-evaluation of juridical definitions of sea-bed areas has been the emergence in international law situations and debates of newly developing states. The four 1958 Conventions 'were produced in one of the last full-scale diplomatic conferences dominated by views of a small group of developed states'.⁴

UNCLOS III

The first session of the Third UN Conference on the Law of the Sea was organizational in nature, and was held from 3 to 15 December 1973. The mode of procedure adopted for the Conference was that all matters would be determined by consensus and there was to be no voting until all efforts at consensus had failed.

The consensus procedure was necessitated by what is commonly described as the 'package deal' nature of the UNCLOS III negotiations. If a comprehensive law of the sea regime is to be generally acceptable to both developed and developing states, it would have to be based on an absence of dissent during negotiation. Consensus is not necessarily a unanimity rule, but is 'a method of decision-making requiring reconciliation of all views'.⁵ Negotiations could therefore be difficult and time-consuming as reconciliation of views would necessitate essential agreement. The concept of consensus is now defined in the 1982 Convention as meaning the absence of any formal objection to a proposal.⁶

The second session, which was the first substantive session, was held in Caracas, Venezuela, from 20 June to 29 August 1974. The major accomplishment of the Caracas session was the collating of hundreds of proposals submitted by delegations into a usable form of alternative articles, which served as the foundation for future texts.

Among procedural measures adopted at Caracas were two rules which provide for the role of official observers to UNCLOS III in three categories, namely: first, specialized agencies, such as the International Atomic Energy Agency and other intergovernmental organizations invited to the Conference, which may designate representatives as observers without the right to vote; secondly, the UN Council for Namibia, which may likewise

designate representatives to participate without the right to vote; and thirdly international non-governmental organizations invited to the Conference, which may designate representatives as observers at public meetings of the Conference.

Participation of these entities as observers is in accordance with normal practice at international conferences, but such participation does not constitute an 'implied recognition of the entity' as a state.⁷ Regarding the participation of the UN Council for Namibia, this Council was created by General Assembly Resolution 2248 (XXII) on 19 May 1967 and originally comprised eleven members but was composed of twenty-five members by the end of 1979. The purpose for which the Council was created was the administering of the territory of Namibia on behalf of the United Nations until independence. The Council operates on an international plane but does not possess the status of a state, nation, country, or non-autonomous territory.⁸ As the Council would not fall into a category with any other non-state participant, the rules of procedure have provided for the UN Council for Namibia as a separate category. The Council, which has participated in UNCLOS III from the outset, could be classed as a *sui generis* entity.

A delegation from South Africa had participated in the Caracas session, but no formal delegation was sent to any further session.

The first informal text produced by the Conference in 1975⁹ set a definite limit of twelve nautical miles as the maximum for the territorial sea, and introduced into the text the concept of a 200 nautical mile exclusive economic zone (EEZ). The EEZ had first been placed on the agenda of the Sea-bed Committee in 1971 as a 'patrimonial sea' area.¹⁰ This zone is an area of increased coastal state control over economic resources and activities, and evolved from early claims by Latin-American states to territorial sea areas wider than recognized under international law. A number of these claims had been made essentially for the protection of fisheries resources, and the trend for states to pass unilateral legislation for a 200 mile zone either in respect of fisheries only or all natural resources has now become recognized as customary international law.

In spite of the consensus procedure, it cannot be said that agreement, particularly in respect of the controversial issue of the International Sea-bed Authority, a body to be set up to regulate deepsea mining, was reached in 1975. On the contrary, in relation to deepsea mining the consensus procedure appears to have operated more on a basis of agreement to postpone further debate to the next session rather than on reconciling irreconcilable views.

Two sessions were held in 1976, the first of which resulted in a Revised Single Negotiating Text, in which a separate section relating to the settlement of disputes appeared. Regarding deepsea manganese nodule mining and the selection of a mining site, what has become known as the 'parallel system' was introduced into the text. Under this system two sites are

chosen by an applicant (a state or state-sponsored corporation), of which one is to be mined by the applicant and the other is intended for mining by the International Sea-bed Authority itself (through its operating arm known as the 'Enterprise').

A further text, an Informal Composite Negotiating Text (ICNT) was introduced in 1977. The US delegation at this stage expressed the view that the deep sea-bed provisions of the ICNT were 'fundamentally unacceptable' to the US. In spite of the significance of general accommodation on *inter alia* questions of the economic zone, passage through straits and a system of dispute settlement, the 1977 session had highlighted what was termed 'the highly confrontational nature of the dialogue between developed and developing states'.¹¹

During 1978 seven negotiating groups were set up to tackle selected unresolved 'hard-core' issues. Among these issues, apart from those relating to deepsea mining, the definition of a precise outer boundary to the continental shelf area was still an unsolved problem, as was the question of principles to be applied to delimitation of continental shelf boundaries between adjacent and opposite states.

A revised text, called Informal Composite Negotiating Text/Revision 1 (ICNT/Rev. 1) emanated from the first part of the 1979 session. A new formula was included for the continental shelf-boundary.

The UNCLOS texts of 1975, 1976 and 1977 define the continental shelf as comprising the sea-bed and subsoil of the submarine areas that extend to the outer edge of the continental margin, or to a distance of 200 nautical miles from the coast (that is, co-extensive with the exclusive economic zone) wherever the outer edge of the continental margin does not extend up to that distance. This definition does not state how the outer edge of the continental margin is to be determined. Under the so-called 'Irish formula', proposed in 1976, the outer limit of the continental rise (which adjoins the deep sea-bed) would be located where the thickness of sedimentary rock is at least one per cent of the shortest distance between that outer limit and the foot of the continental slope, which is a readily locatable natural feature.

The 1979 ICNT/Rev. 1 contains the definition as in the previous texts, and also incorporates the one per cent thickness of sedimentary rock formula, or alternatively, an outer limit at sixty miles beyond the base of the continental slope, with a fixed outer edge at 350 miles from the coast or 100 miles from the 2500 metre isobath. Additional criteria would be determination of the foot of the continental slope by the change in gradient, and straight lines with fixed points sixty miles apart to represent the boundary; and the requirement of an international boundary commission to act as a watchdog to prevent excessive coastal state claims.

The fact that at last the 1979 text contained the definition of the limits did not put an end to the debate on this issue. The debate continued during the

second half of the 1979 session, when several proposals were put forward in respect of the presence of submarine oceanic ridges and their possible effects on the definition of the limits of the continental shelf.

A second revision of the ICNT (ICNT/Rev. 2) was produced in 1980, and this contained, *inter alia*, a compromise formula relating to coastal state jurisdiction over the continental shelf area, which took account of oceanic ridges. A new Annex to the ICNT/Rev. 2 detailed the function to be performed by the proposed Commission on the Limits of the Continental Shelf.

By 1980 approximately 135 changes had been made to the text relating to the deep sea-bed regime and the US delegation was able to state that all the features to which objection had been made in 1977 had been replaced by fair and workable compromises.¹²

The 1980 session also resulted in the transformation of the ICNT/Rev. 2 into a Draft Convention. Among a number of 'general provisions' which were included in the Draft Convention were Articles 309 and 310 relating to the prohibition of reservations. Article 309, which was aimed at protecting the consensus nature of the Convention, states that no reservations or exceptions would be permitted unless expressly provided by other articles in the Convention. It should be noted that the effect of a reservation is to exempt a state from the application of a particular provision and such exemption might operate against the 'package' character of the Convention. To balance the generality of Article 309, the succeeding article, Article 310, provides that states would be permitted when signing, ratifying or acceding to the Convention, to make declarations or statements not purporting to alter the legal effect of particular provisions, if such declarations or statements should be necessary for the purpose of the harmonization of national laws and regulations with the provisions of the Convention.

It is extremely difficult in many cases to determine whether a statement is a mere interpretative declaration or a reservation, and it is possible that in the future great complexities could arise regarding statements and impermissible reservations.¹³

The single most dramatic event during the whole course of UNCLOS III was the US decision at the beginning of the Reagan administration term of office to re-evaluate its position. Just a week prior to the commencement of the 1981 session, the US announced its policy review regarding problems raised by the Draft Convention. The main thrust of the US policy review focused on the deep sea-bed mining issue, and on the UNCLOS III position that the deep sea-bed resources are the common heritage of mankind. The objections were mainly on the grounds of totally insufficient financial incentive and economic benefit to US deepsea mining interests.

This naturally evoked a strong response from other states, in particular from Communist bloc states and developing states. A further US objection

to the Draft Convention was that it contained provisions concerning liberation movements, like the Palestine Liberation Organization, and their eligibility to obtain a share of the revenue of the International Sea-bed Authority.

The first official text, the 'Draft Convention on the Law of the Sea' was issued at the conclusion of the tenth session on 28 August 1981. Included in this text was a solution to the question of delimitation of boundaries between states with adjacent coasts. Such delimitation was to be effected by equitable agreement between the states concerned, and express reference to the equidistance or median line for purposes of delimitation was to be eliminated. The delimitation problem has been the subject of a number of International Court of Justice decisions and international arbitrations, and will probably always remain one of the problem areas in the law of the sea.

The eleventh UNCLOS session, which took place in New York from 9 March to 30 April 1982, was the final decision-making session. The US delegation had decided to return to the Conference and made certain proposals for changes to the Draft Convention. No amendments were acceptable, however, and none were passed.

Draft resolutions, which were intended to take effect before the Convention would enter into force, concerned the establishment of a Preparatory Commission for setting up the International Sea-bed Authority and the International Tribunal for the Law of the Sea; the preparatory investment in pioneer activities by states and private consortia relating to deepsea nodule mining; and the proposed intention that non-independent territories should benefit from the resource provisions of the Convention.

On the last day of the session, 30 April 1982, the US asked the Conference President for a recorded vote on the Convention and the Resolutions. One hundred and thirty states voted in favour of the Convention. None of the US allies in sea-bed mining capabilities joined the US in voting against the Convention. Seventeen states abstained from voting, and four states, the US, Turkey, Israel and Venezuela, voted against the Convention, all for different reasons. Subsequent to the completion of the work of the Drafting Committee, the Convention was adopted on 7 October 1982, and was opened for signature and ratification in Montego Bay, Jamaica, on 10 December 1982. On the first day, representatives of 119 states had signed the Convention.

The Convention will remain open indefinitely for ratification and accession, but was closed for signature on 9 December 1984. At the final count a total of 159 states and supranational bodies had signed. South Africa, which had had no official delegation to the Conference since the 1974 Caracas session, signed on 5 December 1984. Nine states did not sign, of which the US, UK and Federal Republic of Germany were significant non-signatories.

The EEC signed the Convention, and therefore the UK and the Federal Republic of Germany still have an involvement.¹⁴

In terms of Article 308 (1) of the Convention, it will come into effect one year after sixty states have ratified it or acceded to it. Fiji was the first state to ratify. As at January 1985, thirteen states and the United Nations Council for Namibia had ratified the Convention, and as at 31 December 1986 there were thirty-two ratifications.¹⁵ Article 18 of the 1969 Vienna Convention on the Law of Treaties provides that there is an obligation upon those states which have signed a treaty to refrain from taking actions which would defeat the object and purpose of that treaty, in this case the 1982 Convention on the Law of the Sea, during the period between signature and entry into force or ratification and entry into force.

Declarations made by states in terms of Article 310 of the Convention at the time of signature total 146 declarations made by forty-three states. A number of these states have also now ratified the Convention. These declarations have been grouped into General Declarations, Interpretative Declarations and Declarations concerning Dispute Settlement.¹⁶ A statement was made by South Africa at the time of signature in the category of General Declarations and in the sub-category of Recognition of states or entities. The declaration reads as follows:¹⁷

Pursuant to the provisions of Article 310 of the Convention the South African Government declares that the signature of this Convention by South Africa in no way implies recognition by South Africa of the United Nations Council for Namibia or its competence to act on behalf of South West Africa/Namibia.

The 1982 Convention comprises 320 articles and nine annexures and has been described as a virtual constitution for the oceans.¹⁸ The Convention covers almost the entire range of ocean issues: it affirms the twelve-mile limit of the territorial sea and accords to the coastal state sovereign rights over the use of natural resources in the newly sanctioned 200-mile exclusive economic zone. These sovereign rights have been referred to as 'a new kind of functional sovereignty'.¹⁹ The Convention further provides a new definition of the outer limits of the continental shelf, rules for navigation through straits, rights accorded to islands, archipelagoes and land-locked states, prevention of marine pollution, conduct of marine scientific research, transfer of technology, fisheries management, settlement of disputes and deep sea-bed mining beyond areas of national jurisdiction.²⁰

Notably, one of the Convention's final clauses²¹ requires States Parties to agree that there can be 'no amendments to the basic principle relating to the common heritage of mankind'.

Article 311, paras 1 and 2, of the Convention relates, *inter alia*, to the 1958 Geneva Conventions by stating that the 1982 Convention shall prevail, as between States Parties, over the 1958 Geneva Conventions, but that the 1982

Convention shall not alter the rights and obligations of States Parties arising from other agreements compatible with the 1982 Convention. But the Convention contains no provision creating a general super-cession of the Geneva Conventions, that is, excluding them as a formative source of customary international law or excluding their application among parties to the Geneva Conventions who do not become parties to the 1982 Convention. The provisions of the four 1958 Geneva Conventions are therefore still regarded as the presently accepted agreements relating to the high seas, the continental shelf, the territorial sea and the contiguous zone adjoining the territorial sea, and fisheries conservation,²² except in so far as any provisions of these Conventions have been replaced in the national legislation of specific states by legislation closer to the provisions of the successive UNCLOS III texts.

This, then, very briefly outlines the international proceedings on the law of the sea since 1967, leading to UNCLOS III, which has been described as the largest and longest international conference ever held, culminating in the UN Law of the Sea Convention which is not likely to enter into force for at least another three years from now. Most state authorities and legal writers will admit that a large part of the 1982 Convention would constitute customary international law, but the exception must surely be the section relating to deepsea mining. The concept of the common heritage of mankind cannot be designated firmly as a norm of international law of universal validity.

This is not to say that there has been no progress in deepsea mining arrangements. The Preparatory Commission which acts until the 1982 Convention enters into force has as one of its functions the supervising of the problem of overlapping claim areas applied for by pioneer investors. Applications have been received from the Soviet Union, France, India and Japan, and the Commission has requested these states to resolve, as quickly as possible, conflicts stemming from the overlapping of areas which they have claimed.²³ The awareness of the presence of overlapping claims in deep seabed areas which are potentially rich in manganese nodules would indicate that a great deal of preliminary exploratory work has already been engaged in. The fact that seven states: France, Italy, Japan, the Federal Republic of Germany, the UK, USA and USSR have enacted legislation regarding the international sea-bed area is evidence of the significance for these states of deep sea-bed mining.²⁴ Of the above seven states four are signatories to the 1982 Conventions and three are non-signatories.

Have Arvid Pardo's dreams come true? Can it be said that a transformation to a 'world order for the oceans', based on cooperation and management for the common good through institutions in which all states would participate, has come about? The answer must be in the affirmative although not to the extent Pardo would have visualized.

When Dr Pardo introduced Malta's common heritage proposal in 1967, he recommended that the ocean beyond the limits of national jurisdiction be used exclusively for peaceful purposes. He stated that as military installations on or near the ocean floor require protection against spying or harassment, this would almost inevitably lead to unilaterally proclaimed jurisdiction over large areas of sea-bed and superjacent seas.²⁵

Neither Malta's *note verbale* nor the accompanying memorandum explained the meaning of the term 'peaceful purposes'. There was considerable debate in the Ad Hoc Committee on the meaning of the term. Two views were expressed on the military aspects and on the concept of exclusive reservation of the area for peaceful purposes. One was that peaceful use completely excluded all military use. The other was that the military activities in fulfilment of peaceful interests consistent with the United Nations Charter and the rules of international law, should not be banned.

In the event, questions of arms control have not been on the UNCLOS agenda and have been negotiated separately. This subject cannot be dealt with in any detail here except to state that two significant treaties relate to military use of the sea-bed.²⁶ The 1963 'Treaty Banning Nuclear Tests in the Atmosphere, in Outer Space and Under Water' (known as the 'Nuclear Test Ban Treaty') forbids the testing of nuclear weapons and other devices in the atmosphere, in outer space, or underwater including territorial waters or high seas (therefore by implication also including the ocean floor.) A very large number of states are parties to this Treaty, but France which has conducted numerous tests in the ocean environment in the South Pacific Ocean, has not acceded to the Treaty.

Apart from nuclear testing, there is the question of emplacement of weapons on the sea-bed. The prohibition of fixed military installations on or in the sea-bed is consistent with the reservation of the oceans exclusively for peaceful purposes. The 1971 'Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof' was negotiated by the Conference of the Committee on Disarmament and adopted on 7 December 1970 by the UN General Assembly. The area of prohibition does not include the sea-bed in respect of the twelve nautical mile territorial sea area, in accordance with coastal state sovereignty over waters immediately adjacent to its coast. This treaty has been revised. South Africa is a party to both the Nuclear Test Ban Treaty and the Weapons Emplacement Treaty.

An important aspect of the above-mentioned 'cooperation and management for the common good' is the incorporation of the provisions of the 1982 Convention into the national legal systems of individual states. The 159 signatures to the Convention which had been received at the final count would indicate that a large number of states will be working at drafting suitable legislation where necessary, although many states have already in the

past included within their systems many measures now embraced by the 1982 Convention.

The preservation of the marine environment provides an example of the relationship between national (also referred to as municipal) laws and international law. It can be observed that most international pollution control measures represent 'fresh efforts in treaty-making' and analogous concepts that have arisen within national legal systems, including public and private principles of municipal law, have been directly applicable to international treaty-making situations.²⁷ In a relatively new and developing field of international law such as pollution control, the impetus gained from municipal law can well afford to be stressed.

South Africa

Treaties accepted or ratified by States do not necessarily automatically become part of the law of that state. It is more usual that a specific enactment is required before a treaty can become part of the law of a state. In South Africa, the Republic of South Africa Constitution Act²⁸ authorizes the State President to enter into and ratify international conventions, treaties and agreements on behalf of the Republic, but such conventions only acquire formal force of law once they form part of the statute law.

South Africa's laws will be examined with a view to demonstrating the scope of topics covered by existing legislation and/or requiring legislation for the purpose of ultimate ratification by South Africa of the 1982 Convention.

The legislation referred to here is not intended as an all-inclusive list, but as an illustration of South Africa's involvement in the law of the sea.

Legislation relating to the territorial waters

In terms of both the 1958 Convention on the Territorial Sea and Contiguous Zone and the 1982 Convention, the sovereignty of a coastal state extends, beyond its land territory and internal waters, to its territorial sea, which includes the airspace, sea-bed and subsoil thereof, but which is subject to the right of innocent passage by ships of all states. Legislative practice has indicated that the notion of sovereignty has had a variety of interpretations. The territorial sea has variously been included in the 'public domain' or in the 'national territory' or is made the subject of 'ownership' or 'dominion' or 'property' or has been described as the subject of jurisdictional rights only.²⁹

South Africa is one of the states which has asserted ownership over its territorial waters area. In terms of section 2 (1) of the Sea-shore Act 21 of 1935 as amended, the State President is the owner of the sea-shore and the sea.³⁰ The sea is defined as the water and the bed of the sea below the low-water mark and within the territorial waters of the Republic of South Africa, including the water and the bed of any tidal river and of any tidal lagoon. South Africa acceded to all four 1958 Geneva Law of the Sea Conventions on

9 April 1963. Under the Territorial Waters Act 87 of 1963, which came into operation on 12 July 1963, South Africa's territorial waters were defined as the sea within six nautical miles from the low-water mark, its fishing zone as the sea outside the territorial waters but within twelve nautical miles from the low-water mark, and the continental shelf as provided in the 1958 Continental Shelf Convention. In terms of the Territorial Waters Amendment Act 98 of 1977, the territorial waters were extended to twelve nautical miles and the fishing zone to 200 nautical miles, respectively, from the low-water mark, in accordance with prevailing state practice. The Territorial Waters Amendment Act reflects in its preamble the changed general practice observed by states as follows:

Whereas the rules which in the past applied in connection with the extent of the territorial waters of a State are no longer generally acceptable;
And whereas it is in the circumstances expedient to determine and define the territorial waters and the fishing zone of the Republic of South Africa . . .

The assertion of ownership of the water and bed of the sea within the territorial waters in terms of the Sea-shore Act was not made in 1935 but under a 1959 amending statute. The Sea-shore Act of 1935 in its original form provided in section 2 that the 'Governor-General shall be the owner of the sea-shore'; and in section 3:

The Governor-General shall be entitled to exercise full control over the sea-shore of which he is declared by section *two* to be the owner and of the sea and the bed of the sea within the three miles limit.

'Three miles limit' was defined as the distance of three nautical miles out to sea from low-water mark. Act 60 of 1959 amends the Sea-shore Act by *inter alia* the introduction for the first time of a definition of 'sea' and by an assertion of ownership over the sea-shore *and* the sea. The sea is defined as the water and the bed of the sea below the low-water mark and within the territorial waters of the Union, including the water and the bed of any tidal river or of any tidal lagoon. Although reference to the three mile limit was removed, no new limit was substituted. It can be suggested that the removal of the three-mile limit from the Sea-shore Act simultaneously with the introduction of the new six-mile limit in the Territorial Waters Bill in 1963 would have made better sense than removing the limit in 1959 and introducing a new limit only four years later. (As stated *supra* the limit since 1977 is twelve nautical miles.)

The wording of certain other statutes, notably the Merchant Shipping Act 57 of 1951 does not indicate *appropriation* of the territorial waters. It can be mentioned that the Admiralty Jurisdiction Regulation Act 105 of 1983 which came into operation on 1 November 1983 and provides for the vesting of the powers of the admiralty courts of the Republic in the provincial and local divisions of the Supreme Court of South Africa irrespective of the place where the maritime claim arose or the place of registration of the ship concerned or the residence or domicile of its owner, now makes specific

provision for inclusion of the territorial waters in the relevant area of jurisdiction in terms of section 2 (2) which states:

For the purposes of this Act the area of jurisdiction of a court referred to in subsection (1) shall be deemed to include that portion of the territorial waters of the Republic adjacent to the coastline of its area of jurisdiction.

It is noted that the use of the words 'adjacent to' also does not convey that the territorial waters are owned by the state or are part thereof.

The Marine Traffic Act 2 of 1981 as amended has, since 28 December 1984, regulated matters pertaining to the right of innocent passage by ships of all states through the territorial waters, innocent passage being defined as passage which is not prejudicial to the peace, good order or security of the Republic. The Marine Traffic Act not only regulates innocent passage in SA's territorial waters, but provides that no ship may enter internal waters except as prescribed by regulation, other than a harbour or fishing harbour. This provision demands a precise definition of 'internal waters', and they are accordingly described as the waters on the landward side of the normal baseline from which the territorial waters are determined, including any harbour under the jurisdiction of the SA Transport Services, any fishing harbour as defined in the Sea Fisheries Act 58 of 1973 and Walvis Bay, Saldanha Bay, Hout Bay, False Bay, the Knysna Lagoon, the Bay of Natal and Richards Bay.³¹ Therefore only those bays which measure less than twenty-four nautical miles at their entrance are considered part of SA's internal waters. The exclusion from internal waters of bays designated 'historic bays' seems to indicate that no South African 'bays' are recognized as historic bays, since such recognition would mean inclusion under internal waters.

In discussing the inclusion of the seven named bays as internal waters, the Minister of Transport Affairs, in the second reading debate on the Marine Traffic Bill in 1981 stated:³²

Not all the bays around our coast were included in the definition of 'internal waters' heretofore. However, as a result of the legislation before us today most of the important bays are being brought within the ambit of the law . . . The reason why Table Bay in Cape Town has not been brought within the ambit of the law is simply because the distance across Table Bay is far in excess of the distances applicable to Walvis Bay and False Bay.

Therefore only the harbour area of Cape Town together with any roadsteads and loading facilities connected with the harbour are included under internal waters. It would seem that Table Bay had at one time been regarded as an historic bay. This is evident from records of previous parliamentary debates.³³ Historic bays are defined by Professor G N Barrie³⁴

³⁵ bays over which the coastal state, contrary to the generally applicable rules of international law, clearly, effectively, continuously, and over a substantial period of time exercises sovereign rights with the acquiescence of the community of states.

Legislation relating to the continental shelf

South Africa's Territorial Waters Act provides in section 7 that the continental shelf as defined in the 1958 Continental Shelf Convention shall be deemed to be part of the Republic for the purpose of exploiting its natural resources, and in respect of any law relating to mining, precious stones, metals and minerals, including natural oil, which applies in the Republic and that part of the Republic abutting on the continental shelf (that is, the territorial sea), the continental shelf shall be deemed to be unalienated state land.

Under South Africa's mining laws, state land or unalienated state land is one of the categories of land recognized for purposes of mining. Where there is no actual declared ownership as is the case with the continental shelf, the rights in terms of section 7 of the Territorial Waters Act are, it is suggested, rights of limited ownership.

The view that continental shelf rights are rights of ownership is held by one writer, F V W Penick who states:³⁵

From an examination of the negotiations leading to the final wording of the Geneva Convention on the Continental Shelf and the subsequent conduct of nations, the conclusion is drawn that coastal states enjoy real property rights in the minerals *in situ* of the continental shelf.

And he further concludes that the characterization of these rights as real property rights is a well-developed doctrine.³⁶

Under South African law state land is land which is owned by the state and in respect of which the state is also the holder of the mineral rights, that is, precious metals, base minerals, natural oil and precious stones.³⁷ The state as owner of the sea-bed, or in the case of the continental shelf, as deemed to be owner of the sea-bed, is also the holder of the mineral rights *in situ* and has the right to mine and therefore to grant prospecting leases and mining leases. The two most important classes of activities in South Africa's offshore areas are prospecting and mining for natural oil and for diamonds. Prospecting leases in respect of phosphates have also been granted in certain territorial sea and continental shelf areas off the Cape coast.

In terms of the Precious Stones Act 73 of 1964 (precious stones are defined as diamonds, rubies and sapphires and any other substance which the State President may declare to be precious stones for the purposes of the Act), prospecting leases for precious stones may be granted by the Minister of Economic Affairs and Technology, and mining leases over portions of the sea may be granted in terms of section 21 of the Act to the holder of a prospecting lease if the Minister is satisfied that precious stones exist in payable quantities. A number of grants of prospecting leases and mining leases have been made in recent years in offshore areas off the west coast of South Africa between Cape Columbine in the south and the Orange River in the north, as well as off the coast of Namibia in respect of the territorial waters and continental shelf

area of South Africa's twelve islands. Likewise diamond concessions have been granted by the Namibian authorities for areas not covered by the South African prospecting and mining leases.

The right to prospect and mine for natural oil in South Africa is vested in the Government and is governed by the Mining Rights Act 20 of 1967. Section 14 provides for the granting of prospecting leases for natural oil. When a prospecting lease is granted, a draft mining lease will ordinarily be annexed thereto setting out the terms and conditions of the lease which would be binding on the state.³⁸

South Africa's offshore drilling for oil is coordinated by the Southern Oil Exploration Corporation (Pty) Limited (Soekor) which was established in 1965 by the SA Government for the purpose of initiating and coordinating the research for hydro-carbon deposits in South Africa. Soekor has the authority as licensee of the SA Government to undertake exploration on its own account, and to grant concessions and assist prospectors. Lease agreements between Soekor and oil exploration companies provide for the automatic granting of a mining lease in accordance with the conditions incorporated in the prospecting lease upon the discovery of oil and gas in economic quantities. Soekor is obliged to observe, and act in compliance with, all the relevant legislation and regulations, and Soekor's sub-lessees are obliged to assume Soekor's obligations in this regard. Drilling operations have been conducted in areas considerably further seaward of the 200 metre continental shelf isobath. The 500 metre depth line roughly forms the present practical limit for exploration purposes. Soekor's main discoveries are the Mossel Bay gas fields where drilling results have led to studies to determine the economic viability of the production of gas.³⁹

In Namibia the counterpart of Soekor is Swakor (The Southern Oil Exploration Corporation (South West Africa) (Pty) Limited), which is presently completely independent of Soekor, and which derives its authority from the South West African/Namibian executive body.

Most states make provision in their offshore prospecting leases or mining leases or concessions for the observance of a degree of care in accordance with good mining practice and for the performance of rigorous duties to safeguard against pollution.

Soekor's model prospecting lease and mining lease provide that all installations and boreholes shall be maintained in good repair and condition, and all steps must be taken to prevent the escape or waste of natural oil, damage to natural oil-bearing strata and pollution of shore areas. Operations may not be carried out in or about the concession area in a manner which may interfere unjustifiably with navigation or fishing or with the conservation of the living resources of the sea. As an example, Notice to Mariners No. 77 of 1982,⁴⁰ relating to South Africa's south coast oil drilling operations states that 'Oilrig *Sedco K* is operating in position 35°26', 4S21°39', 4E', and that the

safety zone is 1 000 metres radius. The notice appears on the authority of Soekor.

Any person authorized in writing by the Minister of Economic Affairs and Technology is entitled to inspect equipment, installations, boreholes, plant, appliances and works, and to inspect books, plans and records. Failure to fulfil any of the terms and provisions of the lease will not constitute a breach thereof if such failure results from any act, cause, thing or event beyond the control of the lessee, and this includes Acts of God, strikes, floods, storms and earthquakes. Prospecting and mining must be carried out in such a manner as will adequately safeguard and protect persons and property from any damage caused by prospecting or mining, and compensation must be paid for any damage caused.

In terms of section 187 (1) (q) and (x) of the Mining Rights Act of 1967, the Minister of Economic Affairs and Technology is empowered to make regulations for the prevention of pollution in mining operations and the prevention of waste of natural oil in the course of any operations carried out in connection with the mining of natural oil.

Pollution resulting from offshore oil exploration and exploitation activities is, however, regulated under the Prevention and Combating of Pollution of the Sea by Oil Act 6 of 1981, which came into operation on 1 October 1982. Unlike its forerunner of 1971, which provided measures for pollution from ships and tankers only, offshore installations are also subject to the 1981 Act's provisions. An offshore installation is defined as a facility situated wholly or partly within the prohibited area, that is fifty miles from the shoreline, and which is used for the transfer of oil from a ship or tanker to a point on land or vice versa, and includes any exploration or production platform situated within the prohibited area and used in prospecting for or mining of natural oil. The Act provides that the Minister of Environment Affairs and Water Affairs may cause steps to be taken to remove and prevent pollution of the sea by oil outside the prohibited area of fifty miles from the shoreline as he deems fit. Section 24 of the Act provides that no person shall operate an offshore installation unless a pollution safety certificate in compliance with prescribed conditions and requirements relating to the construction and operation of the installation has been issued. Liability for pollution damage by the operator of an offshore installation is strict liability with certain exceptions to liability as provided in the 1969 Civil Liability Convention, to which South Africa is a party.

South Africa's offshore oil exploration activities are by no means necessarily restricted to the fifty-mile zone designated the prohibited zone under the 1981 Pollution of the Sea by Oil Act.⁴¹ In terms of section 7 of the Territorial Waters Act of 1963 as amended, South Africa presently still recognizes as its continental shelf area, for the purpose of exploitation of its natural resources, the area as defined in the Geneva Continental Shelf

Convention of 1958, that is, the sea-bed and subsoil to the 200 metre isobath (which is a geographical and geological criterion) or alternatively as far as exploitation is possible (which is a functional or technical criterion).

The definition of 'offshore installation' in the Pollution of the Sea by Oil Act as a facility situated wholly or partly within the prohibited area would render the Pollution of the Sea by Oil Act inoperative outside the prohibited area. It is suggested that the additional powers of the Minister of Environment Affairs and Water Affairs under section 27 (6) of the Act, referred to *supra*, namely, to cause steps to be taken to remove or prevent pollution of the sea by oil outside the prohibited area in such circumstances and on such conditions as he may deem fit, relate to pollution from ships, tankers or offshore installations navigating or operating within the prohibited zone, but where the consequences of pollution or potential pollution necessitate action outside such zone.

Offshore oil operations must also comply with the Mines and Works Act 27 of 1956 and all regulations made under the Act. Detailed regulations exist covering *inter alia*, workmen, protection of workings, inspections, explosives, precautions against fire, statistical returns, safety lamps, installations, machinery, special safety measures, accidents and inquiries, certificates of competency and underwater mining and prospecting (the last-mentioned category relates to diving, competency of divers, safety measures and diving equipment). These are the regulations which must be complied with under Soekor's prospecting and mining lease. It can also be mentioned that the provisions of the Workmen's Compensation Act 30 of 1941 as amended apply in the case of an accident to a workman resident in South Africa, 'while employed in, on or above the continental shelf in connection with surveys, research, prospecting or exploitation in respect of natural resources' as if it had happened in South Africa. The Act as amended defines 'continental shelf' and 'natural resources' as the continental shelf and natural resources referred to in section 7 of the Territorial Waters Act of 1963.

In spite of the requirement of strict adherence to regulations under the Mines and Works Act of 1956, not all situations relating to offshore prospecting and mining are necessarily covered, since the regulations were essentially devised for underground mining within South African land territory. Although they are also applicable to the search for offshore oil, no separate regulations in respect of oil rigs and other offshore installations yet exist, apart from detailed regulations in respect of divers, diving equipment and safety measures. This is one matter to which attention could be given in view of South Africa's current increased offshore oil exploration activity.

An interesting difference between a provision in the 1958 Continental Shelf Convention and the 1982 Convention is the subject of a recent study by Paul V McDade,⁴² who examines the difference between Article 5 (5) of the Continental Shelf Convention and Article 60 (3) of the 1982 Convention (the

latter is applicable to both the exclusive economic zone and the continental shelf), relating to structures 'not entirely removed'.

The writer examines state practice of the UK and other North Sea states, as well as the USA. He states that a possible conflict has arisen between the earlier 1958 rules and the later rules of the 1982 Convention and he further states that disposal at sea of structures or their components is likely to be a favoured option in abandonment plans, mainly for financial reasons. Article 5 (5) of the 1958 Continental Shelf Convention states:

Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

And Article 60 (3) of the 1982 Convention states that due notice of construction of installations and structures must be given and permanent means of warning of their presence must be maintained; and continues:

Any installations or structures which are disused or abandoned must be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other states. Appropriate publicity shall be given to the depth, position and dimensions of any installations *not entirely removed*.

The last words clearly envisage partial removal of installations.⁴³ Installations must be removed in accordance with international legal requirements, but the procedure for ultimate disposal would be a matter for the law of the state concerned.⁴⁴ In this respect, the 1982 Convention in Article 210 read with Article 216 provides that states must legislate to prevent, reduce and control pollution of the marine environment caused by dumping matter into the oceans. Dumping must not be carried out without the permission of the authorities of a state. States have the right to permit, regulate and control dumping within their territorial sea, EEZ or continental shelf, after due consideration of the matter with other states which by reason of their geographical situation may be adversely affected thereby. Enforcement is to be effected by the coastal state with regard to its territorial sea, EEZ or continental shelf, or by a flag state in respect of a vessel or aircraft of its registry.

South Africa's Dumping at Sea Control Act 73 of 1980 which came into operation on 23 April 1982, prohibits dumping by (*or of*)⁴⁵ any vessels, aircraft, platform or other man-made structures in South Africa's territorial waters and in the sea between high and low water marks, and if by any South African vessels, aircraft or citizen, also on the high seas including the 200-mile fishing zone, except under the authority of a special permit granted under the Act. The Act gives effect to the provisions of the 1972 London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. South Africa is a party to this Convention. Therefore the

legal means of disposal of installations or parts thereof presently exists in South Africa, but the matter is approached here tentatively only, and as a future possibility.

Draft legislation

On 1 November 1985 a draft Marine Affairs Bill was published for general information and comment.⁴⁶ This Bill has now been withdrawn and will in all probability be re-introduced at a later stage in a very different form. It will, however, be dealt with briefly here. The Bill purports to combine and replace the provisions and functions of the Territorial Waters Act of 1963 and its amendment, the Sea Birds and Seals Protection Act of 1973, the Sea Fisheries Act of 1973 and its amendments and the Fishing Industry Development Act of 1978. As SA is a signatory to the 1982 Convention on the Law of the Sea, the draft Bill provides for a 200-mile exclusive economic zone for the purpose of exploiting all natural resources, living and non-living, and a continental shelf with an outer boundary as defined in the 1982 Convention. (The relevant section pertaining to the continental shelf appears twice, slightly varied, in the draft Bill.) The territorial sea remains as under the Territorial Waters Act as amended, that is, twelve miles from the low-water mark.

The draft Bill in section 7 (3) (b) perpetuates what appears to be an error in the Territorial Waters Amendment Act of 1977 namely the according to the state of the right to exercise powers considered necessary to prevent contravention of any fiscal law or any law relating to customs, emigration, immigration, health or living marine resources in its EEZ up to 200 miles oceanwards. In terms of international law (Article 24 (1) of the Convention on the Territorial Sea and Contiguous Zone and Article 33 of 1982 Convention) the contiguous zone extends to twelve miles and twenty-four miles under the respective Conventions and relates to a state's customs, fiscal, immigration or sanitary regulations. A distinction between the designation of the two zones must originally have been intended in the Territorial Waters Act of 1963, but it seems clear that reference to the contiguous zone was omitted as at that time its extent coincided with that of the fishing zone. This incorrect reflection of international law should be amended at some stage by the creation of a twenty-four-mile contiguous zone. It should also be mentioned that the Bill, like all existing legislation, omits reference to the subsoil of the sea-bed.

The provisions relating to ownership of the sea and the sea-bed are still retained separately in the Sea-shore Act of 1935 as amended and therefore remain unchanged irrespective of the introduction of new legislation. Also unchanged is the Marine Traffic Act 2 of 1981 as amended which regulates matters pertaining to the right of innocent passage.

The draft Bill regulates in Part V the control of the catching, processing and marketing of fish by licensing of fishing boats and factories, licensing of

implements, protection of fish, limitations on quantities of fish which may be caught or processed, control over marketing and export; also the control of removal of aquatic plants and recovery of salt; powers with regard to production of guano on islands and protection of sea birds and seals; the entering into agreements with foreign states to permit such states' vessels to operate as fishing boats or factories within the EEZ, and powers of fisheries officers and police officers. The draft Bill applies to the Republic of South Africa as defined in the Republic of South Africa Constitution Act 110 of 1983 which defines the Republic as the provinces of the Cape of Good Hope, Natal, the Transvaal and the Orange Free State. Included in the Cape Province are Walvis Bay and the twelve South African islands off Namibia. The definition in the Bill also includes under 'Republic' the islands and rocks as set out in Schedules 1 and 2 of the Bill as well as all other islands and rocks situated within the Republic's territorial waters. The twelve islands which are part of the Cape Province are also included in Schedule 1 together with other South African islands. Schedule 2 lists for inclusion under the Republic the Prince Edward Islands, that is, Marion Island and Prince Edward Island. Both schedules are derived from schedules to the Sea Birds and Seals Protection Act of 1973 which provides for the exercise of control over, and protection of, sea birds and seals and the prohibition on removal of guano.

The above draft Bill having been withdrawn, a new Sea Fishery Bill was gazetted on 29 May 1987,⁴⁷ and this Bill will very likely be debated and passed during the 1988 Parliamentary session. The Bill is intended to replace the 1973 Sea Fisheries Act as amended, and contains many sections of the 1973 Act and is based structurally on that Act.

It should be noted that the exclusive economic zone is not mentioned in the new Bill which defines 'fishing zone' as 'the sea outside the territorial waters of the Republic but within a distance of two hundred nautical miles from the low-water line and, for the purposes of this Act, includes the territorial waters'. The reversion in the new legislation to 'fishing zone' instead of 'exclusive economic zone' (as in the 1982 Convention), need not, however, be viewed as a retrogressive step. The draft Marine Affairs Bill, including as it did measures presently contained in a number of separate statutes, which can well afford to remain separate, would certainly have constituted a disastrous piece of legislation. To proceed step by step, streamlining and correcting where necessary, is highly preferable.

The new Sea Fishery Bill was drafted because certain important changes in the regulation of the fishing industry have taken place. The Fisheries Development Corporation has been abolished under the Abolition of the Fisheries Development Corporation of South Africa, Limited, Act 33 of 1987. The recommendations of the Diemont Commission have been accepted and incorporated into the draft Sea Fishery Bill, which provides for the following: Establishment of a Sea Fishery Advisory Committee,

establishment of a Quota Board, keeping of a register for quotas, protection of fish, setting aside of marine reserves, development of fishing harbours, research development, licencing of fishing boats, control over marketing of fish and control over the removal of aquatic plants and shells. Section 16 provides that the Quota Board will allocate the total allowable catch in accordance with guidelines laid down by the Minister of Environment Affairs and Water Affairs, but only the Minister may allocate quotas to foreign states exercising fishing activities within the fishing zone.

The new Bill will apply to the Prince Edward Islands, Walvis Bay and the islands and rocks scheduled under the Bill. The new Bill does not apply to Namibia which has its own Directorate of Sea Fisheries, nor to the independent states of Transkei and Ciskei.

Mention should be made of South Africa's participation in international fishing activities and negotiations. South Africa is a member of the International Whaling Commission and a party to the Atlantic Tuna Convention of 1966 under which the International Commission for the Conservation of Atlantic Tunas was established. Among the participating states are the major tuna fishing states, namely Spain, Japan, France, Portugal, the USA and the USSR. The Commission has imposed, *inter alia*, a minimum size restriction on bluefin tuna. Tuna fishing is relatively specialized. Apart from purse-seining, line methods are used to catch tuna. Japanese vessels fish for the bluefin and yellowfin tuna within 100 miles of the SA coast in terms of a permit.

Besides the two above-mentioned commissions in respect of whaling and tuna fishing, South Africa is a party to the 1969 South East Atlantic Convention which operates through the International Commission for South East Atlantic Fisheries (ICSEAF).⁴⁸ This body controls mainly demersal fisheries off Angola, Namibia and South Africa and currently has a membership of seventeen states: Angola, Bulgaria, Cuba, France, East and West Germany, Iraq, Israel, Italy, Japan, Korea, Poland, Portugal, Romania, South Africa, Spain and the USSR. The Commission, which implements certain conservation and control methods, functions mainly beyond the 200-mile fisheries zones declared by SA and Angola. The Commission has a permanent scientific Advisory Council and standing committees on fish stock assessment, fishery statistics and international control.

Preservation of the marine environment and marine scientific research

Finally, legislation relating to the above categories will be summarised briefly, as the subject of marine pollution control is itself an enormous topic. The legal aspects of marine scientific research merit attention, and will be dealt with first.

South Africa may conduct marine research activities in its internal waters,

territorial waters, continental shelf area and fishing zone, and on the high seas, subject to the rights of other states to conduct or participate in research without South Africa's consent on the high seas, and with South Africa's consent in the continental shelf area (provided such research is unconnected with exploration in respect of natural resources). Consent may also be given to other states to conduct such research as may be permitted by South Africa in the internal waters, territorial waters and fishing zone, but this consent is entirely at the discretion of the state.

Scientific research is regulated by the Scientific Research Council Act 82 of 1984, which provides that the Council for Scientific and Industrial Research (CSIR)⁴⁹ has charge of all scientific and industrial research in the Republic of South Africa and advises on all questions of scientific and technological methods affecting the utilization of the natural resources of South Africa and the development of its industries and the proper coordination and employment of scientific research to those ends. The SA National Committee for Oceanographic Research (SANCOR) is a sub-committee of the CSIR and is instrumental in arranging, participating in and actively implementing scientific research programmes which include programmes arranged by SANCOR's Marine Pollution Committee. SANCOR is an active member of the Intergovernmental Oceanographic Commission (IOC) and the Scientific Committee on Oceanic Research (SCOR). The SA Data Centre for Oceanography has correlated data and information from the entire SA coastline as well as the southern oceans. Data are also obtained by exchange from the National Oceanographic Data Centre in Washington.

The National Research Institute for Oceanology has headquarters in Stellenbosch and is also affiliated to the CSIR. This Institute is responsible for arranging reciprocal research projects with scientific teams from other states.

Marine Pollution: Sources of pollution:

Pollution from land-based sources:

Polluting substances enter the sea by direct outfall or from rivers and comprise waste disposal from manufacturing or industrial processes, sewage disposal, run-off of pesticides and other materials used in agricultural, forestry or public health activities. This source constitutes the greatest source of marine pollution. It must be emphasized that regulation is primarily a national responsibility, and that many national laws were already operative long before the international anti-pollution movement began.

In terms of South Africa's Water Act 54 of 1956 as amended it is an offence for any person to wilfully or negligently commit any act which could pollute any water, including sea water, in such a way as to render it less fit:

- (a) for the purposes for which it is or could be ordinarily used by other persons; or

- (b) for the propagation of fish or other aquatic life; or
- (c) for recreational or other legitimate purposes.

The Mines and Works Act 27 of 1956 provides for the making of regulations for preventing and combating pollution of the sea which may be caused by operations in connection with prospecting or mining for any mineral. Regulations promulgated in terms of the Act provide that no water containing any injurious matter in suspension or solution may be permitted to escape without having been rendered innocuous.

Pollution caused by dumping:

Additional to provisions in the Dumping at Sea Act of 1980 (already mentioned *supra* in connection with continental shelf oil exploration and mining activities) is an anti-pollution measure in the Sea Fisheries Act 58 of 1973 which prohibits discharging or dumping into the sea of anything injurious to fish or likely to disturb the ecological balance in any area of the sea.

Pollution caused by ships:

South African marine pollution control legislation includes measures aimed at prevention and control of pollution caused by operational or accidental spillage from ships, measures relating to liability and compensation, and measures aimed at promoting safety in shipping standards, carriage of goods, safety of life at sea and sea routes.

The International Convention for the Prevention of Pollution from Ships Act 2 of 1986, which came into operation on 6 June 1986, regulates the control and prevention of operational discharges of oil and other hazardous substances. Violations within South Africa's area of jurisdiction are prohibited and sanctions are established under South African law. The Act applies to all South African ships or ships operating under the authority of South Africa.

In spite of a decrease in oil tonnage passing around the Cape since 1980, a significant oil pollution threat exists along the coasts of South Africa in what is still a very busy shipping lane. Statistics of ships presently rounding the Cape reveal that an average of 250 cargo and other ships and 35 tankers use the Cape route monthly. Oil tonnage rounding the Cape averages 5 900 000 tons per month.⁵⁰ Fully laden tankers clearly constitute a pollution hazard while considerable problems can be caused by illegal bilge cleaning in South Africa's coastal waters.

In December 1977 a laden tanker, the *Venoil*, collided with a tanker in ballast, the *Venpet*, resulting in the spilling of both crude and bunker oil. As a result of that accident a ruling was made that from 1 September 1979 laden tankers should follow a route outside a line drawn 25 nautical miles off certain salient points of the coast, with due allowance being made for replenishment

requirements, and 'provided that during the winter season laden tankers would be allowed to remain as close as possible to the boundary line of the winter zone where the 25-mile route meets that boundary line'.⁵¹ Tankers in ballast are, however, allowed the right of free navigation, provided the winter zone route, which is an obligatory sailing limit, is observed.

The Prevention and Combating of Pollution of the Sea by Oil Act 6 of 1981, although mainly aimed at regulating accidental spillage and liability for clean-up, also contains many provisions relating to shipping standards with a view to preventing pollution from both operational and accidental sources.

A new statute, the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Act 64 of 1987, which came into operation on 25 September 1987, supplements the Prevention and Combating of Pollution of the Sea by Oil Act of 1981 by providing measures to be taken on the high seas to prevent, mitigate or eliminate the threat of oil pollution to the South African coastline.

Pollution from nuclear activities:

Planning for a power station project at Koeberg in the Western Cape started in 1965, but the development of the site only commenced much later. The nuclear station is now in operation.

South Africa's stated policy is that nuclear waste will not be dumped into the oceans, and land has been acquired at a site at *Vaalputs* in a remote area of Namaqualand, 500 kms from Koeberg, for the development of a national depository for nuclear waste.

South Africa's Nuclear Energy Act 92 of 1982 as amended provides that the authority to control and regulate the discarding of radio-active waste vests in the Atomic Energy Corporation of SA Limited, which controls the processing of nuclear material including the licencing thereof. Nuclear installations may only be constructed and used under the authority of a nuclear licence granted by the Corporation. The Act also establishes a Council for Nuclear Safety, which will operate independently of the Corporation.

Regarding nuclear vessels the Act provides that no vessel which is propelled by nuclear or atomic energy, or has on board any nuclear installation or nuclear-hazard material, shall enter SA's territorial waters for the purposes of calling at any port or anchoring or shall otherwise sojourn in the waters except under the authority of a nuclear licence granted by the Corporation.

Under a provision contained in the Marine Traffic Act of 1981, the Minister of Transport Affairs may make regulations for marine traffic in the Republic's territorial and internal waters, including the prescribing of sea lanes and traffic separation schemes for ships in general or for any class of ship or for ships carrying nuclear or other dangerous or noxious substances.

Conclusions:

The marine pollution control provisions of the 1982 Convention constitute 'new law' but viewed in relation to the large body of multilateral and regional treaty law which has been developed to protect and preserve the marine environment, it is clear that the provisions of the UN Convention which establish state obligations to protect the environment, reflect policies which have long since been adopted by many states. The provisions of the 1982 Convention do not therefore exist in a legal vacuum, but rather reflect principles already inherent in an important and developing body of treaty law.⁵²

As a general conclusion it can be stated that the success of UNCLOS III lies in the perception that it was an important platform for the formulation of change both in the functional concepts of maritime zones and also in the large-scale implementation by individual states, through incorporation into their legal systems, of agreed measures relating to changed maritime zones.

Notes

One mile as referred to in this article means one nautical mile equivalent to 1 852 metres.

1. UN Doc A/6695.
2. UN Doc A/C.1/952.
3. The continental shelf area consists of, from landwards, the continental shelf proper, the continental slope, and the continental rise which adjoins the deep sea-bed.
4. John King Gamble J R 'Assessing the Reality of the Deep Sea-bed Regime' (1985) 22 *San Diego LR* at 780.
5. See Louis B John 'Voting Procedures for the Codification of International Law' (1975) 69 *American Jol. of Int. Law* at 333-4.
6. UN Doc A/CONF 62/122, 7 Oct 1982, Act 161 (7) (e).
7. See Ebere Osleke 'Admission to Membership in International Organizations: The Case of Namibia' (1980) 51 *The British Year Book of International Law* at 227.
8. Osieke op. cit. at 192, 205 and 227-8.
9. Informal Single Negotiating Text (ISNT) UN Doc A/CONF 62/WP 8, reprinted in (1975) 4 *UNCLOS III OR* 137.
10. UN Press Release SB/51, 12 August 1971.
11. Patsy T Mink: 'Foreword' (1978) 15 *San Diego LR* at 362.
12. Elliot L Richardson 'The United States and the Current Status of Deep Seabed Mining and the Third United Nations Conference on the Law of the Sea' (1981) 11 *Environmental Law* at 194.
13. Ted L McDorman 'Reservations and the Law of the Sea Treaty' (1982) 13 *Jnl of Mar Law and Com* at 518.
14. *Rand Daily Mail* 13 December 1984 at 11. See also 'International Developments in 1984' (1985) *Sea Changes* 8-9.
15. *UN Monthly Chronicle* Nov. 1986 at 89.
16. (1985) *Law of the Sea Bulletin*.
17. *Ibid* at 34.
18. *UN Monthly Chronicle* February 1983 at 3.
19. Elisabeth Mann Borgese 'The Law of the Sea' (1983) 248 *Scientific American* at 45.
20. See Ted L McDorman 'The 1982 Law of the Sea Convention: The First Year' (1984) 15 *Jnl of Mar Law and Com* at 211.
21. Art 311 para 6.
22. Convention on the High Seas (1958) 450 *UNTS* 82; Convention on the Continental Shelf

- (1958) 499 *UNTS* 311; Convention on the Territorial Sea and the Contiguous Zone (1958) 516 *UNTS* 205; Convention on Fishing and Conservation of the Living Resources of the High Seas (1958) *UNTS* 285.
23. *UN Monthly Chronicle* February 1985 at 38.
 24. USA: Deep Seabed Hard Mineral Resources Act of 1980, 30 USC 1401 (Supp V) (1981); UK: Deep Sea Mining (Temporary Provisions) Act of 1981: See (1981) 20 *ILM* 1219; *Federal Republic of Germany*: Act of Interim Regulation of Deep Seabed Mining of 1981 as amended: See (1981) 20 *ILM* 393 and (1982) 21 *ILM* 832; *France*: Law on the Exploration and Exploitation of Mineral Resources of the Deep Seabed: See (1982) 21 *ILM* 808; *Japan*: Law on Interim Measures for Deep Seabed Mining of 1982: See (1983) 22 *ILM* 102; *USSR*: Edict on Provisional Measures to Regulate Soviet Enterprises for the Exploration and Exploitation of Mineral Resources: See (1982) *ILM* 551; *Italy*: Law 41 of 20 February 1985: See (1985) 24 *ILM* 983.
 25. UN Doc A/C.1/PV 1515, 1 November 1967.
 26. See the 'Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof' 21 January 1970; (1970) 9 *ILM* 417, together with later revisions; and the 'Nuclear Test Ban Treaty' 5 August 1963: (1963) 2 *ILM* 883.
 27. See James Barros and Douglas M Johnston *The International Law of Pollution* (1974) at 18.
 28. Act 110 of 1983 as amended, S6 (3) (e): previously in terms of Act 32 of 1961, S7 (3) (g).
 29. D P O'Connell *The International Law of the Sea* (1982) I A Shearer (ed.) vol. 1 at 82.
 30. J C Stassen in 'South Africa's Jurisdictional Claims to Areas of the Seas' 1977 3 *SAYIL* states at 149: 'The effect of this enactment was to declare that the affected parts of the sea were to be state property' . . .
 31. See D J Devine 'Bays, baselines, passage and pollution in South African waters' (1986) 19 *CILSA* at 87 for the statement that as the territorial sea is presently not measured from closing lines in respect of these seven bays, but from the low-water mark, some parts of the sea are not being claimed as territorial waters, in particular in the case of False Bay which is the only one of these seven bays having a wide entrance (although still within the definition of a bay i.e. 30,06 kms or 16,23 nautical miles) and where the width of the territorial sea is measured from the low-water line at Cape Point and Cape Hangklip.
 32. (1981) 91 *House of Assembly Debates* 2 February 1981 at col. 499.
 33. See 1963 (3) *Senate Debate* 20 June 1963 at col. 4822-3; and (1963) 8 *H of A Debates* 27 June 1963 at col. 9099.
 34. G N Barrie 'Historical Bays' *Topical International Law* (1979) 132-156 at 156. Professor Barrie quotes the definition of Bouchez.
 35. F V W Penick 'The Legal Character of the Right to Explore and Exploit the Natural Resources of the Continental Shelf' (1985) 22 *San Diego LR* at 765.
 36. *Ibid* at 778.
 37. Section 1 of the Mining Rights Act 20 of 1967 and section 1 of the Precious Stones Act 73 of 1964.
 38. See B L S Franklin and Morris Kaplan *The Mining and Mineral Laws of South Africa* (1982) at 361-2.
 39. See I R McLachlan 'Hydrocarbon Exploration in the South African Offshore' *Symposium, Dept of Surveying, UCT: Exploration, Exploitation and Conservation of the Exclusive Economic Zone*, February 1985 at 2.
 40. Published in *South African Shipping News and Fishing Industry Review* December 1982 at 9.
 41. See *supra* note 38 re depth line.
 42. Paul V McDade 'The Removal of Offshore Installations and Conflicting Treaty Obligations as a Result of the Emergence of the New Law of the Sea: A Case Study' (1987) 24 *San Diego Law Review* 645-687.
 43. *Ibid* at 651.
 44. *Ibid*.
 45. Emphasis added.
 46. Draft Bill on Marine Matters, GN 712 GG 9996, 1 November 1985.
 47. Sea Fishery Bill, GN 351 GG 10752, 29 May 1987, at 77-107.

48. South East Atlantic Convention 1969: 801 UNTS 101.
49. The CSIR was first established under Act 33 of 1945 and has continued to exist under Act 32 of 1962 and now under Act 82 of 1984. Both the former statutes have been repealed.
50. J P Oosthuizen 'The Role of the Department of Transport in the Prevention of Oil Pollution emanating from Ships' *Symposium: Exploration, Exploitation and Conservation of the Exclusive Economic Zone: UCT* February 1985 at 1.
51. Oosthuizen op. cit. at 8.
52. A L C de Mestral 'The Prevention of Pollution of the Marine Environment Arising from Offshore Mining and Drilling' (1979) 20 *Harvard International Law Journal* at 496.

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Elite Perceptions of South Africa's International Options

Introduction

South Africa's international status is characterised by increasing alienation from its traditional allies and trading partners, and by vociferous attempts from outside the country to isolate it from the world community. That this almost universal censure is evoked by South Africa's domestic policies is widely documented and hotly debated. What, however, has led the international political system to 'defy the principles of sovereignty' (Rosenau, 1969:2) and interfere to such an unprecedented extent in a particular country's internal affairs?

As Rosenau notes, until recently political analysts have tended to regard '... national systems ...' as if they '... were immune to external influences and had full control over their own destinies.' In the modern age, '... science and technology have collapsed space and time in the physical world and thereby heightened interdependence in the political world.' More simply stated: 'Politics everywhere, it would seem, are related to politics everywhere else.' (1969:2).

Since the rise of the nation-state as a type of political organisation, individual states have tended to form groupings among themselves, based on geographic contiguity, mutual interests or other cohesive factors. In times of war or regional crisis, such alliances serve to bolster individual weaknesses and thus achieve a collective strength in the face of common threat or adversity. In times of peace, affiliations between states reflect the shifting patterns of ideological cleavage present in the international political system at any one time.¹

The great 'age of exploration' that started during the Renaissance began to link up previously isolated regions of the world. Europe engendered these colonial adventures and dominated world politics for more than three centuries. This Eurocentric supremacy began to decline after World War I—

a process that was hastened after 1945, when two competing concepts of world order emerged — one based on a communist social and economic system and the other on capitalism and industrialism — a bipolar struggle for power dubbed the 'Cold War' between East and West.

A parallel process began to develop as Europe, reeling from the economic shock of World War II, hastily divested itself of its former colonial dominions in Africa, Asia and South America during the 1960s. As the newly independent states came to grips with the problems of sovereignty, legitimacy and multifarious economic issues, the older East–West axis was bisected by a new polarity: conflict between the rich industrial states and the less developed countries (LDCs), creating a North–South equation, or First World and Third World (see Keohane, in Waters, 1967:307).

The devastating impact of two World Wars in quick succession on the international body politic led statesmen to form a world body through which a stable system of international relations could be created and monitored — the United Nations. This forum has increasingly provided a voice for the LDCs and it is these, especially the Afro-Asian group, which have been in the forefront of the drive to isolate South Africa from international politics. As Waters notes, '... the breakdown of the rigid bifurcation defined by the East–West split has changed the once satellite-like behaviour of many states associated with the two chief antagonists in the split.' (1967:282). New group and bloc patterns have emerged as the newly independent LDCs joined the UN and '... like interests, cohesive factors and joint participation in other international organizations have drawn members into group relations in order to have a more effective vote bargaining power.' (Hovet, in Waters, 1967:302).

From this rather crude overview it becomes apparent, as Rosenau points out, that 'No society [and South Africa is no exception] is immune from the stresses and strains of the cold war, from the demands of neighbors and the cross-pressures of hemisphere tendencies, from the shifts of trade and the emergence of supra-national organizations, from the surge toward development of the new states and the restructuring of their historic relationships.' (1969:2)

Theoretically, the study of elite perceptions falls under the rubric of what Rosenau terms 'linkage politics', which rejects the rigid separation of domestic and external environments in the formulation of foreign policy. The latter may be seen as a product of the interplay of differentiated influences that derive from variables in both the domestic environment (e.g. elite perceptions) and the external sphere (e.g. group affiliations or bloc formations) (see Rosenau, 1969:44–63, particularly Figure 3.2 on p. 52).

In the earliest explanations of the concept 'elite', both Pareto and Mosca (see Bottomore, 1964:1–9) have defined it both narrowly as '... a minority which rules over the rest of society ...' — the 'political class' or 'governing

elite' — and more vaguely as, '... those who can directly influence political decisions.' (1964:6). Later studies, although following on from Pareto and Mosca, have extended their narrow parameters considerably and, as Bottomore says: 'The term "elite(s)" is now generally applied ... to functional, mainly occupational, groups which have high status (for whatever reason) in a society ...' and could therefore be said '... to refer to all those groups which exercise political power or influence, and are directly engaged in struggles for political leadership.' (1964:8). Further, the 'political class' '... is composed of a number of groups which may be engaged in varying degrees of co-operation, competition or conflict with each other.' (1964:9). Roberts elaborates on this: 'The minority within a social collectivity (e.g. society, a state, a religious institution, or a political party) which exercises a preponderant influence in that collectivity.' (1971:72-73).

As will be explained more fully later, several elite groupings within South African society have been identified, whose opinions bring direct or indirect pressure to bear on the formulation of foreign policy. In relation to the variables operating within and without the domestic political system, as outlined by Rosenau in terms of linkage politics, a study of elite perceptions of South Africa's international options becomes especially pertinent.

In this study, the term 'international option' is not used as a scientific concept but rather to refer to how certain influential groups within South African society perceive South Africa's relations with international groupings or power blocs, and thus determine in which direction they consider South Africa to be moving regarding foreign policy.

The paper is structured in two parts. In the first, South Africa's relations to the multipolar axes extant within the international political system will be closely examined. From this discussion, certain hypotheses will be drawn, which have been put to the test in a survey of elite perceptions in South Africa. The second part will explain the design of the survey, define and explain the composition of the sampling, and then examine in some detail their responses to the questions posed in the survey, using direct quotes to illustrate the diversity of elite perceptions. Finally, tentative conclusions will be drawn from the results and briefly discussed.

The South African Dilemma

Until the late 1950s, South Africa was a respected member of the Western community (see Olivier, 1977). This relationship began to deteriorate after the Sharpeville incident in 1960, which aroused sharp criticism from South Africa's traditional Western allies and trading partners. The simultaneous rise of apartheid in South Africa and of concern with human rights — graphically termed 'the enthronement of human rights' by Winston Churchill — in the wake of the decolonisation process in Africa and elsewhere during the 1960s, are at the root of this alienation process (see Barratt, 1979).

In 1980 Mr P W Botha, in his 'Twelve Point Plan', outlined five strategic options open to South Africa regarding its external relations:

- alliance with the West;
- alliance with the communist (East) bloc;
- neutrality;
- more emphasis on regionalism; or
- closer ties with 'middle' powers with comparable political philosophies.

According to Geldenhuys (1981:33), the last-mentioned entails the problems of 'recognition' and effectively amounts to acceptance of pariah status.

The first question to be considered is to what extent South Africa's international affiliations are determined by the East-West power struggle. An alliance between South Africa and the communist bloc seems highly unlikely in view of the South African government's traditional and vehement condemnation of communism. Within the perceptual framework of the 'total onslaught' against South Africa, the government regards the Soviet Union and its allies as a primary source of threat and the instigators of violence against the country. The 'unholy alliance' between the African National Congress (ANC) and the South African Communist Party (SACP), Soviet military aid to the ANC and SWAPO, 'communist intervention' in Angola since 1975 and anti-South African propaganda emanating from the Eastern bloc, are often cited by the South African authorities as evidence of a 'communist threat' (see Albright, 1982:3-44; Foreign Policy Study Foundation, 1981:323-339; Gonzalez, 1980:145-167; Thompson & Silvers, 1979:133-158; and Coker, 1980:231-244). Referring to the improbability of a South African alliance with the communist bloc, Geldenhuys comments:

In practice, the chances of South Africa reaching even a covert or tacit understanding with the USSR and the latter consequently abandoning or greatly curtailing activities in Southern Africa which are detrimental to South African interests, are effectively nil. If so, the Prime Minister's reference to overtures from the USSR should rather be seen as a gesture designed for Western consumption; it is a way of reaffirming South Africa's disenchantment with the West and its determination to pursue a 'neutral' foreign policy which would leave it free to establish relations on both sides of the great ideological divide. Whether this message will impress Western powers is doubtful, for they are bound to be highly sceptical of the chances of a Pretoria-Moscow accord, whether on economic or non-economic matters. (1981:32-33)

Whether South Africa may still be said to be associated with the West is doubtful. The estrangement between South Africa and the West has grown over the years, for the reasons outlined. The South African government's viewpoint is that economic and strategic interests determine its relationship with the West, whereas the West maintains that political concerns (*viz* apartheid) inhibit friendly relations with South Africa. Four broad constraints to the relationship may be identified:

- the West's relations with the Third World or LDCs are negatively affected by the West's ties with South Africa;
- Western governments are subjected to negative domestic public opinion and media coverage on South Africa;
- Western governments would prefer a post-apartheid non-racial society in South Africa in which Western capitalistic interests will continue to be maintained and socialistic tendencies minimised; and
- Western empathy with the underprivileged black majority in South Africa (see Geldenhuys, 1982:299–332; Barber *et al.*, 1982; Bull, 1979:1–10; Hill, 1982:89–114; and Franko, 1979:187–207).

Recent developments further widened the gap between South Africa and the West, notably domestic violence in South Africa, the Angolan *débâcle* of 1975, Western support for the UN's mandatory arms embargo, Western policies *vis-à-vis* Rhodesia and South West Africa, and South African military intervention in neighbouring states.

The South African government's traditional attitude to the West has been '... to follow our own natural instincts and align ourselves unreservedly with the West, on the side of democracy against communism.' (quoted in Geldenhuys, 1981:25). However, government spokesmen have argued that South Africa should reconsider its Western ties as the necessary reciprocity to uphold such an 'alignment' is declining. This could be perceived as government attempts to justify a position in which they have very little room to manoeuvre and are therefore compelled to seek wider-ranging economic liaisons. South Africa still insists on its strategic importance to Western security, although Western interest in the Cape sea route has waned with the advent of long-range deep-sea supertankers, making refuelling at the Cape redundant, and with modern developments in naval warfare, which tend to detract from South Africa's traditional role as a Western ally. In the corridors of South African power, the West's reciprocal role as an ally has been seriously questioned and, as P W Botha has stated: 'South Africa was no longer prepared to be taken for granted by the Western alliance.' (see Geldenhuys, 1981:25–27).

The second question to be addressed is whether the North–South equation offers an alternative explanation for South Africa's current international position. Despite certain resemblances, South Africa is not in the same league as the major industrial countries such as the United States, Japan, the United Kingdom, West Germany, France, Sweden, Canada and the Soviet Union. Until February 1980 the International Monetary Fund (IMF) described South Africa as one of the 'more developed primary producing countries'. This category includes Australia, New Zealand, Finland, Greece, Iceland, Malta, Portugal, Romania, Turkey, and Yugoslavia. In March 1980, certain states such as Australia, New Zealand, Finland, Iceland and Ireland were reclassified as industrial states. South Africa was reclassified as a 'non-oil

producing developed state'. Within this broad category, South Africa was placed within a sub-category of ten states, termed as 'major exporters or manufacturers'. The Bank of International Settlements, in its 1982 Annual Report, continues to classify South Africa as one of the twelve 'other developed countries'. This category includes Australia, Austria, Denmark, Finland, Greece, Ireland, Israel, New Zealand, Norway, Portugal, Spain, Turkey, and Yugoslavia (see The Nedbank Group, 1983:15-20). A comparison between fifty-six states revealed that South Africa could not actually be classified as part of the rich industrial world or North. This study was based on a Q-factor analysis² of five economic factors:

- percentage of unemployment;
- average annual growth of GNP at constant prices;
- total annual government expenditure;
- balance of payments; and
- rate of inflation.

The results of this analysis indicate that rich industrial countries such as the US, Canada, West Germany, the UK, the USSR, and France correlate positively to these factors. Poorer countries, such as Kampuchea, Cameroon, Ghana, and Ethiopia register negative scores. Countries such as South Africa, Yugoslavia, Chile, Spain, and Bulgaria show weak but positive scores (Wilkenfeld *et al*, 1980:63-64/99). Thus, South Africa can be typified as an industrial country with definite Third World characteristics. It has (at least until recently) strong trade relations with the industrial world and supports the existing international economic order. On the other hand, the uneven distribution of wealth, education and health services, together with a high dependence on imports, reflect the contradictions inherent in classifying South Africa's economic status.

The Non-aligned Movement (NAM) represents the southern bloc in the North-South equation. Non-alignment, as a foreign policy stance, excludes bilateral alliances which may commit a state to either of the power blocs in the East-West equation, thus maximising a state's ability to manoeuvre politically. To the African states, as Karefa-Smart explains, non-alignment '... simply means a refusal to be committed in advance to giving support to one group or the other in discussions of international problems. It is not intended to mean neutrality ... They suspect that to become too deeply involved in ideological disputes and to commit their support to any one side would restrict their freedom to receive assistance wherever it can be found or is offered.' (in Waters, 1967:323).

Today both East and West accept the NAM as a significant international grouping and even compete for their support (Geldenhuys, 1981:29-30). South Africa, despite its geographical location in the southern hemisphere, does not participate in the NAM for two reasons. First, South Africa is

excluded from the NAM because of its inimical domestic policies. Secondly, South Africa does not support the NAM's goals.

The NAM holds regular conferences to formulate mutual ideals and strategies. South Africa is not only excluded from participation but is one of the main targets for NAM denunciation. At the Havana Conference in 1980, the NAM adopted a resolution which stated that protection of the national independence, sovereignty, territorial integrity and national security of non-aligned member-states would only be assured if the struggle against imperialism, colonialism, neo-colonialism, apartheid, racism, and all forms of external aggression could be won. South Africa was singled out and severely condemned, particularly for the persistence of its apartheid policies, its illegal occupation of SWA/Namibia, and its continued military aggression against its neighbours (*Keesing's*, 1980:30040). If South Africa were to follow a non-aligned policy, it would have to formulate a new variation, '... based not on its acceptability to the two opposing ideological blocs and the non-aligned group, but instead on its unacceptability' (Geldenhuis, 1981:30), which would leave it in much the same position as before — an outcast in international relations.

One of the NAM's overriding objectives is the creation of a New International Economic Order (NIEO), so that redistribution of wealth would diminish the economic disparity between rich and poor countries (Papp, 1980:92-122). This issue is given scant attention in the internal debate about South Africa's external relations.

In domestic politics, the need to close the gap between white and black income and in expenditure on education, housing, health, and other social services, have been salient issues for some time. However, the South African government is committed to the encouragement of free enterprise and capitalism, in both its domestic and international policies. Given that South Africa's trade relations are linked to those of Western industrial states, the maintenance (not the demise) of the current international economic system is highly desirable, particularly in view of South Africa's dependence on exports and the growing threat of economic sanctions. Indeed, most LDCs see South Africa as a regional agent for capitalism and a Western *protégé*, because of mutual economic interests and Western investments in South Africa (Goldsworthy, 1980:222). The idea of a NIEO is thus at odds with South Africa's customary economic policies.

The State President, P W Botha, has stated that South Africa should follow a policy of 'qualified neutrality or neutralism'. As Geldenhuis warns, care must be taken not to confuse the concepts of neutrality and neutralism. They are not synonymous nor interchangeable, but are fundamentally very different. He quotes Venter in this regard: 'Neutrality is defined as an international legal condition or status which enables a country, as far as its

foreign relations are concerned, to remain uninvolved in international disputes or armed conflict.' Switzerland is the classic example of this approach. Neutralism is a 'militant variation' of non-alignment, seen within the context of the North-South equation, and it relates to '... an idealistic concern for world peace, an endeavour to play a mediatory role in the "cold war" and a determination to eliminate the use of force in international politics.' (1981:29-30).

However, it cannot be said that South Africa's current stance conforms to either concept. At best, the stated objective of a neutral position should be regarded as a 'sporadic and emotive reaction' — South Africa's aspirational rather than actual, objective (Geldenhuis, 1981:28). There are a number of reasons to support this argument: South Africa's criticism of the arms race is primarily directed at Soviet behaviour in Afghanistan, Ethiopia, Angola, and Latin America — a product of threat perception meant for domestic rather than external consumption. It is not a signatory of the Nuclear Non-proliferation Treaty and continues to dissemble on its real position regarding disarmament and arms control. Significantly, the South African government has not criticised US behaviour and actions such as their intervention in Grenada, deployment of cruise missiles in Europe and increased military spending by the Reagan Administration.

Further, Geldenhuis notes that '... neutrality is an option of very restricted usefulness or viability in South Africa's foreign relations.' South Africa has been in the international spotlight for too long because of its domestic policies and is also far too deeply immersed in the ideological war between East and West to be able to distance itself far enough to enjoy neutral status, as is evidenced by the South African government's familiar refrain of the 'total onslaught' from the communist bloc (1981:30).

South Africa is not confined only to East-West and North-South alignments in terms of the international options open to it. Two others, those of affiliation with Africa or of pariah status, offer opposing lines of development.

Affiliation with Africa would appear to be the most logical course, given South Africa's natural contiguity with the continent and its dominant economic role within Southern Africa. However, the focus here would be on the whole of Africa and not merely the subcontinent. Statements by politicians such as 'South Africa is part of Africa' and that 'international acceptance must occur via Africa' illustrate that political cooperation between South Africa and its neighbours could only become a reality if South Africa becomes acceptable to Africa at large.

Africa, as a sub-system in international relations, is hard to define because of contradictory elements in its structural relationships. Space does not permit a detailed analysis; suffice it to say that African value consensus reflects the ideology of Pan-Africanism, which rests on three broad

assumptions: that African-derived solutions to problems and not external intervention should have priority; that colonial borders are inviolate and that any form of balkanisation or irredentism is to be rejected; and that white minority governments must be terminated in Africa (see discussion in Zartman, 1967:545-564). Chime describes the attributes of the African system as:

... a common colonial experience, which was continent wide, continuing, and fundamental in its impacts on African political economy; under-development and non-industrialized conditions; widespread feelings of nationalism and unity, being most potent in terms of furthering liberation in Southern Africa; and highly penetrated states that have minimum freedom because of external spheres of influence. (1977:92-93)

The Organisation of African Unity (OAU) plays an important role within the international political system. The OAU's central functions are to seek legitimacy for its members and to identify objectives which evoke general and continental support. OAU successes have been to aid and speed the process of decolonisation, to focus international attention of the campaign against apartheid and, to a certain extent, to act as arbitrator in African conflicts, for example, the Nigerian Civil War and various border disputes, although in this regard the degree of their success is arguable. Africa's lingering economic dependency on its former colonial masters and on the Western economies have frustrated the OAU's aim of fostering more economic self-reliance in African states (see Shaw, 1980:355-397).

Analytically, South Africa does not form part of the African political subsystem. South Africa is excluded from OAU membership, as the OAU actively promotes the termination of white rule in South Africa. Since its founding in 1963, the OAU has served as an institutional framework for African states to coordinate their efforts to end apartheid in South Africa. This has been implemented in three ways:

- The successful diplomatic isolation of South Africa in Africa: South Africa's only remaining formal diplomatic ties are with Malawi; a certain amount of diplomatic interaction with Mozambique (the Nkomati Accord; cooperation over the recent aircraft crash on South African territory in which President Samora Machel was killed), and arrangements involving the BLS (Botswana/Lesotho/Swaziland) states. The African economic boycott against South Africa has been less successful and has only managed to limit South Africa's export market in what is its natural economic hinterland. This is because of South Africa's continuing dominant economic role in the region, especially in terms of rail transport and access to safe harbours.
- The OAU has played a vociferous role in the international campaign to isolate South Africa, helping to terminate South Africa's membership of UN Specialised Agencies, to bring about the mandatory arms embargo in 1977, advocating a comprehensive oil boycott against South Africa, as

well as putting pressure on South Africa's Western trading partners to disinvest from South Africa.

— The OAU has also given diplomatic and military support to the ANC and SWAPO guerrilla movements in their armed struggle against South Africa (Foreign Policy Study Foundation, 1981:292–298).

Olivier (1982:282–286) identifies eight reasons for the poor relations between South Africa and Africa. These are:

opposition from the OAU — particularly the Lusaka Declaration of 1971, which rejected dialogue with South Africa;

unstable African leadership;

South Africa's offensive political style and practices;

South Africa's support for secessionist or rebel movements (Biafra, Katanga, UNITA in Angola, the MNR in Mozambique);

South Africa's under-estimation of the OAU's role in conflict resolution;

South Africa's failure to establish diplomatic ties with Lesotho during its 'outward movement' period;

South Africa's support of the Smith and Muzorewa governments in Rhodesia;

the persistent Namibian issue; and

South Africa's domestic race policies.

The annual ritual of African-supported resolutions at the OAU and the UN, condemning South African policies such as apartheid, Namibia and regional destabilisation, coupled with South Africa's official gloating over economic and political instability in some African states, reflect a relationship divided by implacable differences.

The opposing option, and the one more likely to eventuate, given the South African government's habitual intransigence in dealing with its international relations, is that of pariah status. A pariah state may be defined as one that exhibits several or most of the following attributes:

1. A rather small and weak nation, actually or potentially outnumbered by its surrounding adversaries, in an exposed position due to weak, waning, or non-existent support from its big power benefactor(s) to which it may be — or is — a liability.
2. A nation whose national origins and legitimacy — or present constitutional status — is widely questioned, variously on grounds of borders, the splitting of a 'nation', or conflict over self-determination, racism, ethnic minorities, etc; that is, its present national status, within its own defined borders, is at issue.
3. A nation with objectively poor diplomatic leverage and, therefore, not considered a good alliance partner by major powers (to the contrary: a liability). It relies primarily on the momentum or credibility of relationships formed earlier, on mere sentimentality, on fears by a big power that its (the pariah's) demise might lessen its overall credibility, or perhaps weakly on some subjective factor such as the availability of strategic bases.
4. A nation with a precarious, perhaps even single source of conventional arms

supply, too small or underdeveloped to provide a significant portion of its arms needs through indigenous production; also very vulnerable in a crisis to cutoffs of spare parts or to denial of weapons resupply.

5. A nation faced with adversaries having solid support from a major power, whose support it cannot match. (Harkavy, 1981:136).

How does South Africa match up to these criteria, point for point?

Point 1: South Africa claims for itself and indeed seems to qualify as the 'regional superpower'. In many ways, its neighbours are almost inextricably bound to South Africa economically and are in no position to challenge its military capability. However, since the 1960s, South Africa has been steadily losing the support of its former Western allies and trading partners, to whom it has become an increasing embarrassment and liability.

Point 2: South Africa's origins and historical borders are not in question. As Harkavy comments:

While white South Africa's 300-year history gives it, in many eyes, some legitimate basis for remaining, there is a near total concurrence of world opinion on the necessity for, and justice of, majority rule. It remains to be seen whether even that will suffice, for the mere presence of lingering, large white populations on the African continent in any status, clearly must present a powerful symbol of the past to black Africa. (1981:139)

Various reassurances given by the ANC, especially during the recent Dakar meeting, that they accept the historical presence of whites in South Africa, if the whites reciprocally could accept majority rule, would seem to deny Harkavy's latter statement. The Lusaka Manifesto of 16 April 1969 reinforces this view:

2. By this Manifesto we wish to make clear, beyond all shadow of doubt, our acceptance of the belief that all men are equal, and have equal rights ... regardless of colour, race, religion or sex.

The Manifesto was adopted and approved successively in the same year by the Conference of East and Central Africa and by the OAU, and endorsed by the UN General Assembly in November 1969 in Resolution 2505 (*Southern Africa Record*, 1975:1). However, the creation of the 'homelands', the policy of apartheid and the slow pace of 'limited reform' have brought the international spotlight glaringly to bear on the present government's legitimacy.

Point 3: South Africa's progressive diplomatic isolation — it exchanges ambassadors with only about fifteen states — and its decreasing strategic importance to the West, as mentioned earlier, certainly conform to the premises laid down here.

Point 4: Over the past few decades, South Africa has become almost entirely self-sufficient in supplying its arms needs (see Leonard, 1983:135 *passim*; Parker, 1983:138 *passim*). Ironically, this has come about *because* of its increasing isolation from the world community. Nonetheless, South Africa '... faces a very insecure situation with respect to external arms supplies,

which is only partly mitigated by its modest requirements for the most sophisticated systems.' (i.e. ICBMs, etc). The UN-sponsored voluntary arms embargo has been in force since 1964 and the mandatory embargo since 1977, although France, Italy and Belgium filled the gap until the early 1980s (Harkavy, 1981:145). *Materiel* has also continued to be channelled through Israel, but this situation is unlikely to continue.

Point 5: These criteria would apply if the conflict in Southern Africa escalates to open conventional warfare, with increased superpower involvement, or if the neighbouring countries were to acquire more sophisticated armaments with which to match South Africa's military capabilities (see Crocker, 1981:51).

Scholars are increasingly classifying South Africa as a pariah state (Harkavy, 1981:138-142; Vale, 1977:121-141). Geldenhuys has summarised this as follows:

Clearly South Africa is an international outcast. That is obviously bad enough in itself; what makes it even worse is that South Africa is seen in many quarters as an outcast with a very dubious future. (1977:109)

Whether 'pariah status' works as a practical form of international association is dubious. Bilateral relations between pariah states may have certain advantages, for example, in arms transfers, joint arms production, nuclear co-operation, and in providing trade and investment opportunities, especially in the face of sanctions and embargos. South Africa's bilateral relations with such pariah states as Taiwan and, until recently, Israel, illustrate this. However, the potential of such alliances as international power groupings remains limited (Harkavy, 1981:155-158). Historically, alliances between minor states have achieved little. An example of this is the 'Little Entente' between Czechoslovakia, Romania and Yugoslavia during the interwar years. Geographic distance (as between South Africa and Taiwan) undermines any potential for developing mutual strategies for dealing with international crises or regional conflicts. Any sense of community between pariahs must exhibit negative rather than positive attributes in the face of moral or economic rejection by the West. These states' acute perception of threat demonstrates that '... the political and security ties among pariahs are inherently unstable — they are uneasy bedfellows at best. In some cases, their relationships may even constitute overall liabilities.' (Harkavy, 1981:157). Any possibility for unity between such pariah states is undermined by their patent desire to regain normal relations with existing power blocs, in particular with the West. Spain, Portugal and Greece have each at one time or another had pariah status, but after significant changes of regime, equilateral relations have been restored (see Geldenhuys, 1985:38).

Harkavy makes an interesting observation:

An overriding similarity among the four pariahs [South Africa, Israel, South Korea and Taiwan] is that each suffers from widely-held external perceptions of it as a temporary state scheduled for history's rubbish heap (all the more so as

the once more formidable U.S. protective shield gradually evaporates). To the extent that these expectations of doom connect to the absence of perceived 'permanent' legitimacy are fully comprehended and internalized within the pariahs, of course, they cannot help but militate toward desperate measures, toward 'final solutions' involving the familiar mixed imagery of suicide and final revenge . . . which may be seen in South Africa's . . . attachment to the stubborn "laager" myth . . . (1981:139).

In terms of the above analysis, what is South Africa's current international position? According to Geldenhuys (1981:37), only the first two of the five options, an unqualified alignment with the West and alliance with the communist bloc, are clearly unacceptable to the government. Regionalism is in line with the government's concept of a 'Constellation of States' in Southern Africa. For any state, pariah status must be a last alternative and not a voluntary choice. The South African government's oft-repeated threat to 'go it alone' has to be construed as making a virtue of necessity. Geldenhuys argues further that South Africa could pursue more than one of these options simultaneously:

. . . South Africa's 'pariah' connections are hardly an impediment to closer ties with the West, least of all the United States under the Reagan Administration. In short, South Africa's pursuit of both closer ties with the West and a strengthening of its 'pariah' relationships are not two mutually exclusive objectives. (1981:36)

Such dual objectives are often found in international relations. For example, Cuba and Yugoslavia are acceptable to the majority of Third World countries, as well as to the communist bloc. Sweden and Canada, both Western states, have many non-aligned foreign policy objectives.

From this analysis of the various options open to South Africa, a number of hypotheses have been deduced, which have been used to form the basis of the questions posed in the survey of elite perceptions in South Africa from which the data for the second part of this study have been drawn. An explanation of the research design and a detailed examination of the survey's results follows.

Survey: Hypotheses

The survey of elite perceptions in South Africa sets out to examine the applicability of three hypotheses. These are:

- H.1: South Africa's international position is not significantly related to its existing options.
- H.2: South Africa's international position correlates to pariah status.
- H.3: South Africa's international position correlates to dualism in terms of its options.

Survey: Research Design

Questionnaire

Respondents were requested to identify their first and second choices to

five statements which, in their view, would best represent South Africa's international affiliation(s). These statements are:

- South Africa is part of the **West**
- South Africa is part of **Africa**
- South Africa is an **outcast/pariah** in world affairs
- South Africa is a **non-aligned Third World state**
- South Africa is part of the **wealthy industrial world**

Choices regarding association with the communist bloc and with a Swiss-type neutrality were excluded, in view of their current and/or short-term future improbability.

Methodology

Data were gathered by means of a postal questionnaire. This method was chosen for its particular advantages: it is cheaper and less time-consuming than interviews, and the prejudice, awkwardness and misunderstanding that may often ruin an interview are largely avoided.

Special care was taken with the construction of the questions to ensure that respondents would understand and answer the questions with ease (see Bailey, 1982:Chap 7; and Moser & Kalton, 1979:Chap 2). A draft questionnaire was subjected to the critical evaluation of academics and civil servants during a seminar. A revised version was then refined by means of a pilot study. Although postal questionnaires are highly structured, flexibility was maintained by making sufficient allowance for comments.

A covering letter explained the nature and purpose of the survey and requested the respondent's cooperation. Anonymity was guaranteed—their names would not in any way be linked to the use of their answers and comments. The above questions form part of a larger survey of elite opinions on South Africa's international relations (see Van Wyk, 1984; 1987).

Response pattern

Response to postal surveys is generally found to be poor. Careful planning and the application of proven precautionary measures (see Hoinville, 1978:Chap 7) helped to eliminate many of the hiccoughs usually associated with studies of this nature and ensured a satisfactory response. Two follow-up letters and a second questionnaire improved the response rate dramatically: after the initial questionnaire, the response rate was 22,57 per cent; after the first follow-up letter, 34,6 per cent; after the second

questionnaire, 50,33 per cent; and after the second follow-up letter, the final total of 61,15 per cent. Responses may be tabulated as follows:

Table 1: Elite Response to Postal Questionnaire

Response	Total Sample	Total Response	% Response
Business	98	51	52,04
Academic	91	83	91,21
Media	103	70	67,95
Political	101	69	68,32
Bureaucratic	121	90	74,38
Black	108	39	36,11
Coloured & Indian	109	45	41,28
Total	731	447	61,15

These figures indicate clearly that the response of Black, Coloured and Indian elites does not compare favourably with that of the other elite groupings. Possible explanations could be that negotiations on constitutional reform make major demands on the time of Indian and Coloured leaders. Also, political surveys have shown a tendency among 'non-whites' to refuse to cooperate or to ignore questionnaires (see Van der Merwe, 1974:11; and Van Wyk, 1977:78). In this survey, letters and comments received from some of the 'non-white' respondents reflect their reluctance to express their opinions on sensitive political issues to a White academic, whom they perhaps unfairly yet also understandably, regard as a legitimiser of the political system and not as an objective scientist. They tend to doubt the guarantee of anonymity, as do also, unfortunately, members of the security establishment.

Approach to survey sample

A stratified, selected sample of 731 individuals of elite status was chosen as the *modus operandi*: stratified because the sample comprises seven elite groups, and selected rather than random because the 'cream of the crop' were approached — only incumbents in leading or executive positions in relevant organisations or institutions. A pluralist approach was used, recognising that each section of society generates a number of elite groupings (see Parry, 1968; Dahl, 1961; and Potter, 1961).

Identification of elites

Seven elite groupings whose opinions are regarded as relevant to foreign policy-making have been identified. Not all these groupings have direct influence on the formulation of South African foreign policy. One may assume, however, that decision-makers operate (or should operate) on the assumption that elite support — expressed or tacit — is a prerequisite for successful policy. The groupings are as follows:

1. *Politicians*

These are the leaders of the ruling National Party and include members of the Cabinet, Deputy Ministers, and members of the parliamentary study groups on Foreign Affairs and Defence. Although the 'non-white' elite also includes politicians, for the purposes of this study, all references to 'politicians' or the 'political elite' pertain to the **White** political elite.

2. *Bureaucrats*

Three types of senior civil servants who influence foreign policy-making were identified: **diplomatic** — senior members of the Department of Foreign Affairs; **security** — senior members of the South African Defence Force (SADF), the South African Police (SAP), and the Secretariat of the State Security Council; and **technocratic** — senior members of various government departments with predominantly functional, economic and technological orientations. Collectively, bureaucrats and politicians may be called the **government elite**.

3. *Media*

This includes two groupings: **printed media** — editors, news editors and senior political journalists from both Afrikaans- and English-language newspapers with a circulation above 20 000; and **broadcast media** — top officials from the South African Broadcasting Corporation (SABC), both radio and television.

4. *Academics*

Although drawn mainly from political scientists, academics from other disciplines and sub-disciplines that have a manifest interest in foreign policy, such as History, Development Studies, Sociology, Economics, and Strategic Studies, have also been included.

5. *Business*

The managing directors of the top 100 companies in South Africa were approached (see *Financial Mail*, May 1982).

6. *Blacks*

Identifying the Black elite in South Africa poses problems. Two broad groupings were defined. The first includes Black political leaders operating from **official** platforms created by the policy of separate development. The 'independent homelands' have been excluded as they have their own — albeit extremely limited — foreign policies. Homelands that have not opted for 'independence apartheid-style' do not have their own foreign policies. Although they are excluded from the foreign policy process, they are nonetheless subject to the consequences of South Africa's foreign policy. Therefore, Cabinet members from Kwazulu, Gazankulu, Lebowa, KaNgwane, KwaNdebele, and QwaQwa have been included, as have the chairmen of Community Councils in the Johannesburg area. The

second grouping was selected from groups and organisations operating within the **informal** sector. It comprises those with definite and diverse political views, ranging from liberal critics of apartheid to counter-elites advocating radical change in South Africa. Individuals were selected from interest groups such as trade unions, churches, church societies, black business organisations, the black consciousness movement, an ethnic political-cultural party, the media, and other urban political associations.

7. *Coloureds and Indians*

Opinions on foreign policy among Coloured and Indian leaders are relevant for two reasons: first, the new tricameral constitution has drawn them into the mainstream of political decision-making in South Africa; and, secondly, the constitution defines matters such as foreign affairs and defence as common or 'own' affairs. This therefore involves Coloured and Indian MPs in parliamentary debate and lobbying on these matters. The **Indian** elite includes members of the South African Indian Council (SAIC) and the President's Council (PC), as well as executives from those parties and groups that boycott the SAIC. The **Coloured** elite comprises leaders of the various political parties, community leaders, leaders from various fields such as education and religion, and members of the PC.³

Results of the Survey

How do the various elite groupings identify South Africa's affiliations to the international community in terms of the statements set out in the questionnaire?

What has emerged is that the various elites do not show any clear consensus in this regard. Three of the groupings, as outlined below, prefer certain options, the significance of which is unfortunately obscured, as less than half the respondents specifically indicated their support. As the statistics presented in **Table 2** indicate, 47,1 per cent of politicians and 35,6 per cent of bureaucrats regard South Africa as part of Africa, regardless of its low level of participation in continental politics; 45,7 per cent of academics, 33,3 per cent of media and 36,2 per cent of business typify South Africa as a pariah; and 40 per cent of Coloureds and Indians view South Africa as part of the Western world.

Table 2: Elite Perceptions of South Africa's International Options

Int'l option	Polit	Bureauc	Black	Col & Ind	Acad	Media	Business
West	17,6	25,3	18,9	40,0	21,0	26,1	27,7
North	16,2	9,1	21,6	10,0	9,9	13,0	8,5
South	1,5	1,1	2,7	3,5	1,2	7,2	2,1
Africa	47,1	35,6	27,0	27,5	22,2	18,8	23,4
Pariah	17,6	26,4	24,3	12,5	45,7	33,3	36,2
No data	0,0	2,3	5,4	7,5	0,0	1,4	2,1

That so many politicians and bureaucrats view South Africa as part of Africa is hardly surprising, but this is probably because they tend to emphasise South Africa's hegemonic regional role rather than to encourage more equilateral participation in the subcontinent's politics. Their perception should also be seen as shaped more by ideological than actual constraints. Since the days of Smuts, the thrust of South African foreign policy has been to establish a framework for regional cooperation, with itself firmly in the driver's seat. South Africa's concept of its role as a regional power is based on its economic and military predominance and therefore sees itself as a 'superpower' in Southern Africa and even beyond, regardless of the fact that it is effectively excluded from participation in the affairs of significant groupings such as the OAU and SADCC. Perceptions of power and not of acceptability have shaped this attitude.

Academics, media people and businessmen view South Africa as a pariah state. With regard to the first-mentioned, even a cursory reading of current academic literature tends to confirm this. Most local political scientists, such as Geldenhuys and Vale, have classified South Africa as having pariah status in the international system. As scholars, objectivity must come before ideological considerations, and this attitude is perhaps nearer the truth of South Africa's actual status than those of the previous groupings. Whether the media can be said to be as objective in their approach to this as are academics is debatable; nonetheless, their perceptions are shaped less by ideology than are those of politicians and bureaucrats. The same holds for business, especially as this grouping has to make more realistic decisions in the long-term, faced as they are with the implications of economic sanctions.

Why so many Coloured and Indian respondents see South Africa as part of the West is more difficult to explain. They have only recently been drawn into the parliamentary process, as junior partners in the tricameral system. The more moderate leaders participate in the new dispensation and are possibly more conservative and inexperienced in relation to South Africa's foreign relations. Obviously this finding reflects only the views of a co-opted elite. Further research is required to ascertain the perceptions of Coloured, Indian and Black leaders in counter-elites.

Following is a selection of interesting comments drawn from the questionnaires. The first selection is based on perceptions of South Africa's affiliation to Africa, primarily on non-political grounds:

'South Africa is geographically part of Africa and the majority of its population is Black, and Africa is Black.' (homeland minister)

'RSA is not accepted by the countries of Africa hence not a member of OAU therefore it's only geographically part of Africa.' (journalist)

'Die groot komponent derde wêreld aard van Suid-Afrika is rede vir stelling.' (bureaucrat) (The largely Third World nature of South Africa is the reason for this statement)

'Ons is en bly deel van Afrika en ons pad terug na erkenning is deur Afrika —

m.a.w. moet met Afrika tot vergelyk kom.' (SADF general) (We are and remain part of Africa and our road back to recognition is through Africa — in other words, we must become reconciled with Africa)

'But it must be added that it is very much and in every sense of the word part of Africa.' (businessman)

'South Africa is part of Africa but behaves not like that.' (black urban leader)

'Suid-Afrika se sterk anti-kommunistiese houding maak hom *nie* deel van die Weste sekerlike ook nie 'n onverbonde Derde Wêreldland nie. Ons is natuurlik 'n Afrikaland en behoort dit nie te vergeet nie.' (bureaucrat) (South Africa's strong anti-communistic attitude makes it neither a part of the West nor simply a Third World country. We are naturally an African country and should not forget it)

Many respondents emphasised South Africa's economic, cultural and historical ties with the West. Feelings of political discontent are often mentioned:

'South Africa is by history and economics tied in interest to the West without sharing the same value system.' (journalist)

'Of course, South Africa originates from Europe.' (homeland leader)

'Yes in reference to white population.' (bureaucrat)

'Indien na die bloksentriese bedeling verwys word.' (academic) (If this refers to the bloc-centric division)

'Ongelukking weet die Weste dat die RSA in tye van krisis 'n "captive ally" is. Dit is tyd dat die RSA aanstip dat ons nie vanselfsprekend Westerse belange steun nie.' (diplomat) (Unfortunately the West knows that the RSA is a "captive ally" in times of crisis. It is time that the RSA indicates that we do not inevitably support Western interests)

'That South Africa is a part of the West, there is no question about. The mere fact that both Barclays and Standard Banks and many of our large companies are subsidiaries of either British, American or European countries. A pull out by all these companies could cause the immediate collapse of the South African economy.' (homeland leader)

South Africa's pariah features were also emphasised:

'Streng gesproke lyk dit my Suid-Afrika is deel van die Derde Wêreld *en* Eerste Wêreld op ekonomiese gebied, maar op houding 'n paria.' (researcher) (Strictly speaking it looks to me as if South Africa is a part of the Third World *and* First World economically, but in terms of attitude it is a pariah)

'Because of its unacceptable unchristian political practices South Africa is a polecat of the world.' (homeland minister)

'Not in the sense of a martyr rather a self-inflicted condition often incorrectly used by South Africans to indulge in self-pity and to attack foreign nations for their "discrimination".' (journalist)

'I cannot give you a second choice as until the policy and government of the country change (c) [pariah] will exist. What would replace the current system is unpredictable but it would dictate future relations.' (journalist)

'RSA is wel een van die welvarendste state in die wêreld maar word as 'n uitgeworpene behandel weens sy apartheidsbeleid wat menswaardigheid in sy diepste wese aantas.' (coloured leader) (RSA is one of the most affluent states in the world but is treated as a pariah because of its apartheid policies which affect human dignity in its deepest being)

Respondents also commented on South Africa's importance as an industrial country:

'Dink bv. aan ons mynbou-tegnologie. Op die gebied van brandstof-uit-olie — selfs ons krytuigontwikkeling is 'n voorbeeld van 'n welwarende industrie.' (bureaucrat) (Think for instance of our mining technology. In the area of fuel-from-oil — even our development of armaments is an example of an affluent industry)

'It is very well known of our technological expertise in the international field.' (homeland minister)

'Die RSA is een van die lande ter wêreld wat vir die res van die wêreld 'n goeie belegging blyk te wees.' (white politician) (The RSA is one of the countries in the world that would seem a good investment to the rest of the world)

'Handel en finansiële verbintenis met Suid-Afrika weerspreek telkens die politieke affiliasies wat regerings probeer vestig teenoor Suid-Afrika.' (business man) (Commerce and financial ties with South Africa frequently show the political affiliations governments have tried to establish with South Africa)

With regard to the three hypotheses, some tentative deductions arising from the responses follow:

five of the elite groupings — bureaucrats, Blacks, Coloureds and Indians, the media, and business — could not significantly link South Africa's position to existing international power blocs, thus supporting Hypothesis 1. Academic perceptions of South Africa as a pariah would seem to support Hypothesis 2. However, this group's position is weakened as less than half supported this option strongly. The perceptions of the political elite and of Coloureds and Indians suggest that a hypothesis on South Africa's affiliation with the West and Africa needs to be included in any future studies of this nature.

The statistics tabulated in **Table 3** illustrate the degree of support for Hypothesis 3, that South Africa's position is dualistic.

Table 3: Dualism in South Africa's International Options

ELITE	W/Afr	W/Par	W/S	W/N	Afr/Par	Afr/S	Afr/N	Par/S	Par/N	S/N
Politicians	30,9	2,9	0,0	10,3	14,7	2,9	25,0	1,5	7,3	4,4
Bureaucrats	26,4	13,7	1,1	17,2	10,3	1,1	11,5	2,3	11,5	1,1
Blacks	8,1	8,1	0,0	16,2	13,5	2,7	16,2	2,7	16,2	2,7
Coloureds & Indians	17,5	5,0	0,0	30,0	7,5	2,5	15,0	7,5	7,5	0,0
Academics	22,2	19,2	1,2	3,7	19,7	2,4	8,6	3,7	16,1	0,0
Media	17,4	14,4	1,4	10,1	14,6	2,9	7,2	5,8	13,0	4,3
Business	17,1	19,1	0,0	17,0	23,4	2,1	6,4	2,1	6,4	2,1

The highest percentages registered were those of politicians (30,9 per cent), who regard South Africa as part of both the West and Africa, and Coloureds and Indians (30 per cent), who identify South Africa as part of both North and West. These figures are, however, too low to be significant.

The comments of some respondents are clearly attempts to rationalise South Africa's international isolation. They point out South Africa's 'unique

position' in world politics and also note the government's 'acrobatic skill' in *realpolitik* situations.

A number of respondents feel that there is possibly more than one point of view. An academic comments that South Africa acts like a chameleon in world politics: 'West, pariah and industrial all apply depending on which set of relationships is analysed.' A businessman has a similar view: 'Clearly all statements are true in different circles around the world.'

The political elite in particular underplays South Africa's isolation, using contorted justifications of South Africa's complex international position. For example: 'Volgens die openlik-verklaarde houding is Suid-Afrika eerder die wêreld se paria (meeste lande ter wêreld), maar ten opsigte van praktiese (sonder om dit te hard, openlik te verkondig) skakeling met Westerse magte kan ons ook beskou word as deel van die Weste. Politiese skakel ons nog nie by Afrika in nie omdat Afrika nog nie die vermoë het om 'n eie siening (onafhanklik) te ontwikkel nie.' (According to the openly declared attitude, South Africa is the world's pariah [to most countries in the world], but in terms of practical [without declaring this too loudly or openly] interaction with Western powers, we may also be regarded as part of the West. Politically we do not slot into Africa because Africa does not yet have the ability to develop its own attitude [independently].)

Two out of every three respondents who commented on dualism (sixteen out of twenty-four) tend to regard South Africa as both part of Africa and the West. Two broad explanations were given:

- The South African population reflects such a duality. Blacks identify primarily with Africa and Whites with the West.
- South Africa still cherishes Western values for cultural, historical, economic and security reasons, but geographical and, to some extent demographic, constraints force the country to function within the particular circumstances of Africa.

Most of the comments on dualism seem to spring from a need to rationalise the situation, from unrealistic expectations, and not from reality. Given that this interpretation is correct, Hypothesis 3 would therefore seem to be false.

Conclusion

Without doubt, South Africa's international position is closely related to and influenced by its domestic policies. Its position is in flux and is tied to the nature and tempo of internal change. Until only a few years ago, the South African government had consistently denied that any causal relationship between apartheid and international isolation existed. Today the link is not only acknowledged, but the idea that the way to end this isolation is to reform apartheid policies at the domestic level has been strongly suggested (Geldenhuys, 1985:99).

To understand the differences among elite perceptions, it is useful to examine three possible scenarios of South Africa's future, as outlined in a study by Shaw (1983:61-62) and then to look at which of these reflects the current reality of South African politics and is therefore the most probable.

The **first scenario** rests on the assumption that the present status quo in South Africa should remain intact. In such a case, South Africa would be characterised by apartheid at the domestic level; as dominant at the regional; and by pariah status at the global. This scenario is supported by reactionary White South Africans — both in the Conservative and National parties — and by ultra-conservative minorities (the so-called lunatic fringe) in Western countries.

If political reform continues, a **second scenario** is envisaged. South Africa would then be characterised by multi-nationalism at the domestic level; co-operation (the much-touted 'constellation of states') at the regional; and allied to the West at the global. This view is supported by moderates in South Africa, particularly Inkatha, the Progressive Federal Party, corporate interests in South Africa and the West, many White intellectuals, and conservative political leaders in Africa and the West.

If the apartheid regime were overthrown in a revolution, a **third scenario** becomes probable. At the domestic level, socialism; collective self-reliance at the regional (with closer ties to SADCC); and non-alignment at the global. This direction is supported by more radical elements such as the UDF and its affiliates, by many Blacks and also 'progressive' academics. They argue that nothing less than either a total collapse of the present system and/or a complete handover of power from the White minority government to the Black majority would effect the necessary changes to restore a liberated South Africa to its rightful place in world politics.

Seen objectively, South Africa's current situation reflects the conditions outlined in the first scenario. Political reforms have failed largely because they were too limited in scope and did not satisfy Black expectations. It is impossible to escape the fact that internationally South Africa is perceived as a pariah. Therefore, as the results of this survey would indicate, the perceptions of the academic elite are arguably the most accurate. However, even South Africa's ties with other pariah states are in jeopardy. Israel is currently reviewing its close military links with South Africa because of pressure from the United States, thus potentially closing a vital channel for sophisticated technology. South Africa's relations to South American pariah states also hang in the balance. Regime changes from military governments to democracies in Brazil, Argentina and Peru have increased the vulnerability and illegitimacy of pro-South African regimes in Paraguay and Chile, although the stability of the transition in the case of the first two has yet to be determined and Chile can boast the only currently viable economy in South America. Increasingly, South Africa and Taiwan are becoming almost

completely isolated from the international system, and their mutual trade and other agreements add up to very cold comfort.

Since this survey was conducted, the already acrimonious relations between South Africa and the West have deteriorated even further. The introduction of the tricameral parliament has led to a spiralling cycle of violence in South Africa. Violence erupted in the townships and a partial state of emergency was declared, which was later extended by the government. Various Western governments have become disillusioned with the actions of the South African authorities — the limited nature and slow pace of 'reform' and the manner in which township protests have been handled, especially as this has been presented in an extremely negative manner in Western media, increasing the domestic pressure brought to bear on these governments. The United States and other Western countries have distanced themselves from their recalcitrant former ally by introducing increasingly comprehensive and stringent trade sanctions against South Africa (see **Table 4**), driving the wedge between South Africa and the West ever more deeply, especially as the South African government's response has been to draw the 'laager' more tightly around the country.

Table 4: Sanctions or Embargoes Introduced Against SA by Mid-1986

	Arms sales	Sport/cult'l	New invest	Import K-Rds	Govt loans	Oil sales	Trade/selec	All trade	Diplomatic relations
USA	x	x	x	x	x	x	x		
Australia	x	x	x	x	x	x	x		
Brazil	x	x				x			
UK	x	x		x	x	x	x		
Canada	x	x	x	x	x	x	x		
Denmark	x	x	x	x	x	x	x	x	x
France	x	x	x			x	x		
Israel	x								
Italy	x	x				x	x		
Japan	x	x	x		x	x	x		x
Netherlands	x	x	x			x	x		
Sweden	x	x	x	x	x	x	x		
Switzerland	x	x							
W Germany	x					x	x		

Source: *Time Magazine*, 7/7/86:23

Relations between South Africa and the West would only be normalised if majority rule could evolve or if truly sweeping reforms were to be initiated and carried through by the government. The failure of the Commonwealth's Eminent Persons Group in 1986 to facilitate talks between the South African government and the ANC, as well as the government's rejection of the moderate KwaNatal provincial power-sharing proposals, have diminished the realisation of this possibility in the immediate future.

Nevertheless, the third scenario still remains probable. Various larger surveys have shown that a majority of the Black elites oppose apartheid (Van Wyk, 1984:20-21). There is strong Black support for the idea of majority rule

in South Africa (see Buthelezi Commission, Vol.1, 1982:259–264; and Fredman *et al*, 1983:119). As current patterns of violence, protest and resistance (*viz* guerrilla warfare, sabotage, protest in townships, industrial strikes and stayaways — and resultant Security Force action) in South Africa escalate and the country's international isolation grows, scenario three will become increasingly relevant.

In the last analysis, repetition of the survey longitudinally at regular intervals remains the only manner in which to confirm the validity or otherwise of the hypotheses and conclusions set out in this paper.

Endnotes

1. Black voting in the General Assembly of the UN is an example of such cleavages in *international relations*. (See Waters, 1967:Chap 11)
2. Q-factor analysis is a statistical technique of measurement that expresses variables by means of numbers. Such numbers are then expressed as statistical correlations, each of which implies causality between two or more variables.
3. Since the introduction of the tricameral parliament, two distinct groups can be identified in the Coloured and Indian elites. First, the co-opted elite — that is, those elite members who participate in the tricameral parliament. Secondly, the counter elite — those opposing apartheid and who participate in the activities of the UDF and other organisations.

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The Persian Gulf: Regional Instability and Superpower Interests

The Persian Gulf, which forms the central sector of what Zbigniew Brzezinski called the Indian Ocean's 'arc of crisis', has in the past year once again become a focal point in international politics. Instability in this region points out clearly the interdependence between national, regional and global interests. Although the genesis of the conflict between Iran and Iraq is primarily internal, the concern and activities of regional and outside powers (even under the guise of neutrality) have had the effect of internationalising and perhaps even exacerbating the conflict. This short paper will examine the dynamics of the Persian Gulf region and its interaction with the interests and policies of outside powers, particularly the United States and the Soviet Union. The geopolitics of energy is accorded specific attention.

The instability which has plagued the Persian Gulf region for the past decade has been contributed to by unique political and economic factors. Although the economic importance of the region can be traced back to the discovery of oil at the turn of the century, it was a combination of strategic and economic factors that linked the Gulf to the outside world in the post-war bipolar system. The region rapidly moved to the forefront of international attention when, in 1973, the oil-producing states wielded their newfound power. Acting in unison, the Arab members of the Organisation of Petroleum Exporting Countries (OPEC) placed an embargo on oil exports to the United States and the Netherlands for supporting Israel in the Yom Kippur war. This was followed by a quadrupling of the oil price by OPEC to \$11.65 per barrel (pb), accomplished in only five months. The so-called oil crisis had debilitating consequences for the world economy, as oil is indispensable to modern industrial economies. OPEC's member governments could effectively control world oil prices and received most of the revenue from oil production.

The situation was aggravated by the political turmoil in Iran in 1978–1979. Ayatollah Khomeini, religious leader-in-exile, called for a strike by Iranian petroleum workers, which brought Iranian exports to a standstill. Overnight, this disruption removed three million barrels per day (mbd) from the world oil market, pushing the official oil price up further to \$28 pb, with

spot prices even higher — and the international oil market has not reached equilibrium since. In 1986 oil prices plunged, partly as a result of lower demand by the industrialised nations and partly because OPEC members themselves were not adhering to the production ceilings imposed by their own organisation.

The Iranian revolution toppled the Pahlavi Dynasty in a show of extreme opposition to the Shah's autocratic rule. Khomeini and his supporters were particularly critical of the Shah's secular and western-influenced governing structures. In February 1979 Khomeini returned from exile in France to direct the revolution, creating a theocratic republic founded on the fundamentalist interpretation of Shi'ite Islam. Islamic fundamentalism regards religious authority as the primary one and the state, at best, is only an instrument.¹ Moreover, it is radical and expansionist, with the concepts of *Jihad* (holy war) and martyrdom continually encouraged. Even though only ten per cent of all Muslims are Shi'ites and only a fraction of these fundamentalist, the wave of 'holy terror' resulting from events in Iran has made other states in the region apprehensive of a threat to the stability of the region.

The upheaval in Iran prompted reaction from Iraq's Saddam Hussein, whose forces invaded Iran in September 1980. The immediate pretext for the war was the issue of control over the Shatt-al-Arab waterway that forms the border between the two countries at the northern end of the Gulf. Besides this century-and-a-half-old territorial issue, other longstanding religious, cultural and personal differences resurfaced. Iraq's Ba'athist regime was wary of Iranian hostility to its Arabist cause as well as the potential appeal of Khomeini's fervour to the Shi'ite majority within Iraq. Iraq aspired to a leading role in the Gulf, impossible while the Shah was in power. Only a week after the outbreak of the war, Hussein was prepared to make peace on certain conditions, *inter alia* recognition of Iraqi territorial rights, non-interference in Iraqi internal affairs (and thus the Ba'athist Party) and good neighbourliness.

In response, Iran set its own conditions for peace, including the replacement of the Hussein government, identification of Iraq as the original aggressor, and war reparations of billions of dollars. Neither has accepted the other's conditions and the war rages on, fraught with miscalculations and misunderstandings. Both countries have shifted constantly between offensive and defensive postures.

Foreign Interests: The Superpowers

The oil wealth of the Persian Gulf countries has been the prime factor contributing to the region's importance in global politics. On estimate, the Gulf countries contain approximately sixty per cent of the world's proven oil reserves, with Saudi Arabia alone accounting for twenty-five per cent. While these figures are impressive *per se*, their significance is increased when the

Western World's dependence on this raw material is considered. Whereas the United States imports only a third of its oil supplies (and only a fraction of that from the Persian Gulf), Western Europe's import dependence is close to sixty per cent and Japan's is over ninety per cent.

US policy since the enunciation of the so-called Carter Doctrine during the last year of his presidency must be seen in the context of the USA's position as a superpower and leader of the Free World. The US committed itself to keeping open the sea lanes of the Persian Gulf and to maintain secure oil supplies by 'any means necessary, including military force'. The Reagan Administration's policy has continued along these lines, taking an even more hardline approach, including the further development of Diego Garcia and a policy of 'regional access' to negotiate the use of bases in 'friendly' countries (Egypt, Somalia, Oman, Kenya). Most recently, the policy has led to the reflagging of Kuwaiti tankers and an augmented US Navy presence in the Persian Gulf. (A report in late August 1987 quoted a US Department of Defence spokesman saying that the number of ships in the Gulf was approaching that deployed during the Vietnam war.) The increase is significant because the friendly conservative Arab Gulf states (Kuwait, Bahrain, Qatar, United Arab Emirates, Saudi Arabia) are reluctant to see an expanded US presence in the Gulf. Such visible US policy places these states in a position where they are associated or identified with the US. Given the state of US-Iranian relations, the moderate Arabs are wary of raising Iranian ire. The latter has already singled out Saudi Arabia and Kuwait as enemies and conspirators with the 'Great Satan'.

The credibility and priorities of US policy must be viewed not only in the context of its commitment to its role as protector of western interests and the maintenance of freedom of navigation, but also in terms of its global strategic considerations. An important and relatively new element in this equation is the US domestic oil situation: one of declining production and increased imports.² The complacency induced by overcoming the oil shocks of the 1970s and the more recent oil glut and price drops may prove dangerous. While US petroleum consumption is currently nearing record levels, domestic oil production is declining and imports are increasing significantly. US oil production fell by 800 000 barrels per day in 1986 (about three per cent), with imports showing a twenty-eight per cent rise. The reason for this is the considerable slack in the supply side of the world oil market. There is a sizeable excess capacity. Depending on the type of well, the cost of producing a barrel of oil in the US is at least double compared to the Middle East. (Some sources put it as low as \$1 for the Middle East and as high as \$17 in the US.) Consequently, the US domestic oil-producing sector has borne the brunt of the cheap oil policy. An additional problem is that oil wells cannot simply be turned on and off like a tap — the so-called stripper wells, for example, which each produce on average less than ten barrels per day, account for a large

proportion of production. These US oil wells have been closing down at an alarming rate. To resume production is as costly as sinking a new well. According to *Time* magazine, some seventy-five per cent of US drilling rigs are not producing — it is simply not profitable.

Although the immediate cost falls on domestic producers, the situation is bound to have a ripple effect on the US economy as well as the country's energy and national security. It is evident that reductions in oil company profits (at best) and bankruptcy (at worst) mean fewer new wells and a fall-off in oil exploration. This in turn portends a decline in reserve additions with potentially serious long-term security implications.

The US Department of Energy released a voluminous (and long overdue) report on energy security in March of this year (1987). In the context of this discussion some salient features of the report are:

1. Oil will remain the most important energy source for the US and the rest of the world in the medium-term future. This takes into account the development and increased use of alternative energy sources such as coal, nuclear energy and renewable resources.
2. If oil prices do not exceed \$28 pb by the mid-1990s, as the two future scenarios sketched in the report assume, US oil imports could rise to fifty per cent of total US consumption.
3. While no specific recommendations were made in the study, the policy options discussed demonstrate the complexity of the issue. The US government opposes protectionist measures, as the cost to the economy would exceed the benefits derived.

Relevant to this discussion and following on point 2 above: increased oil imports threaten energy security. Even though there is significant excess oil capacity outside OPEC, increasing reliance will fall on the Persian Gulf members of OPEC, where the largest excess capacity resides, lending momentum to a process that could put OPEC in the driver's seat once again. The US National Petroleum Council forecast this year that OPEC will be producing at eighty per cent of its capacity by 1990, compared to the present sixty-six per cent. The former figure has in the past enabled the organisation to control oil prices.³

An important factor affecting the importance of the Persian Gulf in international relations generally and the West specifically is Soviet strategic interest in the area. This is partly due to the nature of relations between the superpowers and the penetration of the region by both East and West. US and Soviet interests and policies in the region are asymmetrical. The USSR has historical geopolitical interests because of the region's proximity to — and in part, contiguity with — Soviet territory. Instability in the region constitutes a potential threat to the USSR. The USSR also displays an interest in the area as a reflection of its superpower status, although compared with the US, the Soviet Union has played a relatively minor role, at least in the

maritime aspect. Initiatives such as Brezhnev's proposed Peace Zone, as well as the effective exclusion of the USSR from the Arab-Israeli peace process, have in the past accorded that country a secondary role. The Soviet Union has been more successful in pursuing what have been referred to as 'negative' goals,⁴ e.g. undermining ties between regional states and hostile powers such as the US. 'Positive' goals include, for instance, gaining an influential voice in local issues and establishing a presence conducive to international power projection. These goals have remained largely elusive, but Soviet pressure continues.

Of particular concern to this discussion is the USSR's position as the world's largest oil producer and exporter.⁵ Eastern bloc production as a whole is declining. Soviet oil production peaked in 1983. Oil exports are indispensable to the Soviet economy, accounting for the greater part of hard currency earnings from trade with the industrial West and Japan. These earnings are necessary for financing the import of grain and technology. Although the USSR has vast possible and probable oil and natural gas reserves, their successful exploitation is subject to constraints such as limited technology and cost of extraction. It is in this area that the detrimental effects to the USSR of the world oil price slump show most — the country enjoyed a 'free ride' with OPEC during the period of high prices in the 1970s. The Soviet Union's foreign exchange earnings have been hard hit by lower oil prices, which means they have to export much more to maintain constant earnings. Gorbachev is attempting to stimulate and modernise the economy, which would undoubtedly lead to greater energy consumption domestically. Moreover, more than one half of Soviet oil exports go to Soviet satellites and it serves Soviet interests to perpetuate this dependency. Subject to enhanced oil recovery techniques and conservation efforts, there is a strong possibility that the Soviet Union may become a participant in the Persian Gulf oil market.

It is not inferred here that the USSR is necessarily planning to deny the West oil, but any move by the USSR into the Persian Gulf, whether economic or political, will place pressure on existing oil resources. With regard to Soviet interests, the Persian Gulf gains additional significance — first because of its importance to the Western alliance system *per se* (possible denial control), and secondly as a potential source of oil. In this respect, lower oil prices would benefit the USSR as an *importer*, therefore stability is in the interests of the Soviet Union.

On the other hand, higher prices (possibly engendered by rapid escalation of tensions in the Gulf, for example, Iran attacking Saudi Arabia) would realise greater earnings for dwindling Soviet oil exports. In this regard, limited covert action and/or Soviet-sponsored maritime terrorism are possible options for Moscow.

Current Situation

In the wake of the Iran-Iraq war and Khomeini's desire to transcend borders and rid the area of US influence, the region is facing an unprecedented security threat. The overriding US interest is to preserve and maintain the *status quo* among the Gulf states (regional balance of power) and therefore the oil reserves vital to the West and Japan. The security of these interests has prompted the US to assert a policy which seeks to contain Iran's expansionism. Iran perceives an international conspiracy to thwart the revolution; any act designed to preserve the *status quo* is seen as anti-Iranian.

For the US, the ousting of the Shah of Iran in 1979 and Khomeini's accession to power meant a major loss of influence in the region. A pro-western government was replaced with a hostile regime whose fundamentalist ideology referred to the US as the 'world devourer'. Prospects for greater Soviet influence seemed good initially. In formulating a new policy for the Gulf, since 1979 the US government has therefore adopted a cautious stance. Fear of becoming embroiled in hostilities, the possibility of being labelled an 'intrusive power' and the disastrous results of US intervention in Lebanon in 1982, have led policy-makers in Washington to assess the situation more carefully and to adopt essentially 'defensive' measures in response to regional problems.

When the Iranians struck out at the Iraqi southern port of Basra in January this year, the scales tipped slightly in Iran's favour, and there was renewed US concern. As part of Khomeini's 'final crusade', the fall of the city would inevitably lead to the collapse of the Hussein regime. Iraq stepped up attacks on ships calling at Iranian ports. Iran retaliated outside the war zone by striking at ships belonging to Saudi Arabia and Kuwait, both tacit Iraqi supporters. When hostilities moved from the mainland to the waters of the Gulf, the US became increasingly concerned with possible attacks mounted against oil tankers carrying Western oil supplies, leading to the new Reagan Gulf initiative as the administration realised the full implications of allowing the Iranians to intimidate Gulf shipping unhindered.

It took an Iraqi pilot's mistake earlier this year — of firing at a US frigate, the 'Stark' — to give impetus to the Reagan Administration's new initiative. The incident prompted a reassertion of the US role in the Gulf and even extended it. Reagan's decision to reflag eleven Kuwaiti tankers reflects an attitude that is more assertive and demonstrates a commitment to and responsibility for protecting Western interests. Western solidarity has slowly emerged and the US is increasingly able to look to allies like Britain and France for support. Both have dispatched minesweepers to the region which are vital to safeguard shipping.⁶

With foreign power involvement becoming a characteristic of the war, the US and the Soviet Union demonstrate a surprising similarity of interest in the Gulf. For both, a priority is to contain Khomeini in his quest to create a

broader Islamic Republic. Although the USSR welcomed the change of government in Iran and its movement away from the US, the war jeopardises its special relationship with Baghdad. The superpowers therefore are reluctant to see an outright victor in the war. A victory by either belligerent would mean the rise to pre-eminence of a regional power and both have demonstrated hegemonial ambitions.

For the Soviet Union stability is paramount because a spread of fundamentalism could limit the success of Gorbachev's 'new style' diplomacy in the Middle East, designed to secure Soviet interests and increase its foothold in the region. There is also the potential ripple effect of a manifestly successful, resurgent Islamic state or region on the 'Islamic' republics of Soviet Central Asia, most of which have only a minority of Russian or 'Slav' citizens within their boundaries and resent the heavy hand of Moscow rule. The Soviet Union has been courting states in the region actively, evidenced by diplomatic relations with Oman and the United Arab Emirates and preliminaries to reopening relations with Saudi Arabia are under way. Gorbachev signed an economic agreement in Iran last December and reopened the Soviet-Iranian Chamber of Commerce in Moscow. Most recently, a Soviet consular delegation visited Israel. It is interesting to note that the US decision to reflag Kuwaiti tankers came only after the Soviets had agreed to lease tankers to Kuwait.

In the short term, US policy may prove effective (and possibly already has), with outside powers an effective deterrent to Iran. Iraq has welcomed the intervention. It should be noted, however, that these policies have been conceived more from an anti-Iranian persuasion than from pro-Iraqi sentiment. The Iranian government reacted, with the Prime Minister stating that 'the Persian Gulf is not a safe place for the superpowers, and it is not in their interests to enter these quicksands'. Iran backed this statement with naval manoeuvres, code-named 'Martyrdom', to challenge the US presence in the Gulf. Whether a US-Iranian confrontation is in the offing is a matter of speculation. On the one hand, the recent deaths of hundreds of Iranians at Mecca, with Khomeini predictably making the US the scapegoat, could strengthen his resolve to 'settle the score'. Alternatively the Iranians could become increasingly reluctant to attack the US Navy as the number of US warships inside and outside the Gulf increase.

The Gulf states have inevitably been drawn into the vortex of war as their future stability and perhaps survival is put in jeopardy. Iran has vowed to bring the Saudi and Kuwaiti governments down. Iran recently attacked Kuwait with the Silkworm missiles based on the Faw Peninsula they captured from Iraq in 1986. Notwithstanding strong religious influences, Saudi Arabia, Kuwait, the United Arab Emirates, Oman and Bahrain have secular governments: Iranian subversion would threaten their current structures. Paradoxically, the Gulf Arab States still demonstrate an

unwillingness to commit themselves to any single party. Although moderates like Saudi Arabia, Kuwait and Bahrain tacitly support Iraq, these states have kept a modest profile in the war because of their justifiable fear of provoking both Iran and their own substantial Shi'ite Muslim minorities. Instead of becoming actively involved in the armed struggle, the Gulf states have preferred to prepare themselves militarily against attack by Iran.

In 1981 six states created the Gulf Cooperation Council (GCC), a major regional response to the Iran-Iraq war. They focused initially on non-military cooperation, although officials have admitted that emphasis has shifted to security and defence cooperation. Although not yet an effective defence alliance, the GCC has added marginally to the security of members by expressing political solidarity and providing facilities for intelligence exchanges and joint military exercises. The GCC has also supported mediation efforts to end the war. It is doubtful whether the Gulf states could individually or collectively repel a sustained attack; the combined population of the GCC countries (12 million) is still smaller than that of Iraq and only one-third of Iran's. Even though it has the advantage of being able to spend \$25-30 billion per year on defence, the GCC's lack of manpower (heavy reliance on mercenary forces is common, underlined by the recent shift from Pakistani to Egyptian support, following the rediscovered acceptability of Egypt in Arab counsels) and infrastructure severely inhibit the members' deterrent capabilities. This fact is borne out by the Kuwaiti decision to place half of its merchant fleet under the American flag.

Ironically, the states have demonstrated, at best, only wavering support for the new US initiative. The prime beneficiary of the operation is Kuwait, yet when the US decided to dispatch minesweeping helicopters to the region, it was unable to negotiate the right to use bases in Kuwait or Saudi Arabia, necessitating their shipment to Diego Garcia.

Conclusion

Predictions about the future of the Gulf are complicated by the plethora of variables present in the complex equation. One can, at best, only point out some trends. As far as the world oil market is concerned, it seems fairly certain that an oil 'crisis' of the proportion and impact of that during the 1970s will not be repeated. In the West, governments, oil companies and other participants in the oil market have learned hard lessons and taken measures to guard against possible future disruptions. These include stockpiling, hedging, more efficient use of resources and switching to alternative energy sources.

It is unlikely that tension in the Gulf *per se* will disrupt oil supplies. First, both warring parties rely on their oil exports to finance the war. Although Iran is making it hazardous for shipping in the Gulf, it is also putting itself at

risk. Ironically, the 'Texaco Caribbean', recently damaged by a mine, was carrying Iranian oil. Secondly, Saudi Arabia, Iraq and Iran are increasingly using pipelines to transport oil to ports outside the Gulf. Although the existing and planned pipelines are unlikely to usurp fully the use of tankers because of their high cost, they will be able to carry about fifty per cent of Gulf production. While they are relatively easy targets for sabotage, a large-scale disruption in supply would occur only in the event of escalated and widespread conflict such as an Iranian attack on Saudi Arabia. Iran does not, however, possess the necessary resources and in that unlikely event would certainly have to face US retaliation.

The world oil market is still trying to achieve a state of equilibrium. A substantial oversupply of oil exists, although OECD demand is growing. The IMF has projected that OPEC demand, as well as that for oil-importing developing countries, will continue to increase. In considering price trends, OPEC is an important factor. Cohesion within the organisation has been low, militating against successful implementation of its policies. Member governments have put their own interests (often conflicting) above those of the organisation. OPEC states have been hard hit by lower oil prices. The high prices of the 1970s enabled these developing countries to undertake massive development programmes which need to be sustained. Because of reduced demand for their oil, to obtain revenue they have consistently undercut each other by exceeding the quotas set by OPEC, thereby impeding the effective functioning of the organisation which set the high prices in the first place.

The Gulf war has adversely affected relations within OPEC. Iran in particular has tried to increase its market share to augment its much needed revenue, indispensable for financing the war with Iraq. Saudi Arabia, the leading OPEC producer, has a key role in this respect. In the past it has succeeded in off-setting downward pressure on prices by cutting production. Faced with growing balance of payments deficits and rapidly shrinking financial reserves, the Saudis increased production in 1986, which immediately caused prices to plummet to \$9 pb. Recently, Saudi Arabia was instrumental in raising oil prices to \$18 pb by cutting production. It is ironically one of the few remaining areas where there is any degree of consensus among the Gulf states, whether friend or foe. Lower oil prices also affect the security of the Gulf states by curbing defence expenditure. Iraq is aided by the Gulf Arabs through subsidies which remain indispensable but are becoming increasingly difficult to sustain.

The war between Iran and Iraq is likely to continue. Neither party is willing to compromise, although Iran appears to be the more intransigent, demonstrating its resolve by refusing to accept the UN ceasefire proposals and relentlessly pursuing its fierce rhetoric toward Gulf states and foreign

powers in the region. Syria, for instance, is under pressure from the Arab League to cease its support for Iran. At the time of writing, the Arab League convened its first meeting in eight years. The complexity of regional issues is again evident. The summit was to focus on the war, but somewhat tenuous relations between members have detracted from this.

In the search for consensus it has been reported that prospects would brighten for a reconciliation between Iraq and its main Arab opponent, Syria, but this has not yet occurred. Furthermore, Egypt is keen to be readmitted to the Arab League although this is opposed by President Assad of Syria. The Gulf states, by contrast, seem willing to readmit Egypt. They, particularly Kuwait, need technical and logistic assistance and Egypt is in a position to provide this. Egypt in turn needs funds. Egypt and Iraq have announced that they are to resume diplomatic relations and an official visit to Saudi Arabia is planned for January 1988. If Egypt were to play an active role in the Arab world, this might conceivably lessen the Gulf states' (overt) reliance on an 'outsider', viz the United States.

Although it is premature to evaluate the success of western, notably US, presence in the Gulf, it appears as if Iran's deeds do not match its words. Western solidarity can only enhance its own deterrent capability, but the commitment of US policy needs to be questioned. The credibility of Reagan's intentions seems sound. The crucial question, however, is whether the policy can be sustained. US gunboat diplomacy was successful during the conflict with Libya in 1986, as was the invasion of Grenada in 1983; however, sending marines to Beirut in 1982 proved futile. These analogies are cited because their significance and duration may be useful in evaluating current US policy in the Gulf.

Iran is likely to maintain its destabilisation attempts even if only at a low level. This places the US in a difficult position as Reagan has little more than a year left in office. A costly, drawn-out engagement in the region could run into congressional and public opposition and there are already indications of this. American foreign policy has often been inconsistent, with consequent loss of credibility. A 'waiting game' could only be in Iran's favour and it is therefore imperative for the US to see through what it has started and to encourage regional initiatives. The United Nations has tried to assume the role of peacemaker but Iranian stubbornness has prevented positive results to date. A mandatory UN arms embargo against Iran has to date been prevented by the Soviet Union.

With reference to internal developments in Iran, it is unlikely that a successor to Khomeini will follow a substantially different policy. Islamic fundamentalism has proven its influence and staying power, with religious fervour growing unabatedly. Despite reported divergences in the ruling elite, the display of unity and the general support for the ongoing revolution is

evident. To pin hopes on the so-called 'pragmatists' would be perilous and opportunistic.

The states of the GCC are faced with a situation in which it will become more difficult to maintain a 'neutral' stance or even a low profile. In the current situation their stability and policies are dependent on US support. They are aware of this but at the same time prefer to have the US presence as inconspicuous as possible. Their real concern is over the inconsistency of American support and the apparent lack of long-term objectives on the part of the US. Realistically they look ahead to a time when they are left alone in the Gulf once more. Present circumstances deny them the luxury of choice. The Gulf states, faced with the threat of Islamic fundamentalism, realise what is at stake (*inter alia*, their very survival) and within their limits are improving their defensive postures. As the war spreads to non-warring parties through aggressive acts such as the Iranian attacks on Kuwait, inevitably there is widening Arab concern. President Mubarak has declared support for Kuwait publicly and reportedly has sent pilots and technicians to its aid.⁷

The USSR, in obstructing the implementation of a UN arms embargo against Iran (perhaps partly to gain concessions in the Soviet-US arms negotiations), may well find that this leads to an escalation of hostilities in the Gulf which would, in the long run, be to the USSR's disadvantage. Similarly, USSR imports of oil and gas from Iran are probably more to Iran's advantage. It is highly unlikely that a victorious Iran would accede to Soviet wishes. The USSR's main policy instrument in this unstable region has been and seems likely to continue to be the provision of arms. While the unstable trends in the region have been conducive to the furtherance of Soviet aims and policies, Gorbachev's ambivalent courtship of the antagonists is unlikely to be more successful if hostilities subside.

For the US, successful maintenance of the regional balance of power would bring greater stability to the area and increase energy security. If Egypt were readmitted to the Arab League it could make a greater contribution to regional power moves and perhaps (legitimately) assume a role more complementary to US objectives. Current US policy has a strong military profile, which serves to remind the Soviets and others that US stakes in the region remain high and that the US is willing to defend them. It also demonstrates to the Iranians that the cost of pursuing aggressive strategies will be formidable.

Western solidarity — there are now five European powers with a military presence in the Gulf — has been welcome support for the US. It emphasizes international opposition to Iranian destabilisation of shipping in the Gulf.

Finally, it becomes clear that no policy can be conducted or viewed in isolation. The interrelationship between regional and international issues is evident in the emergence of a symmetry between the interests of outside

powers, even if for different reasons. The US, USSR and the Arab Gulf states have no interest in an escalation of the war, nor would they like to see a decisive victory by either party.

Notes

1. Benard, C & Khalilzad, Z *'The Government of God': Iran's Islamic Republic*, New York: Columbia University Press, 1984.
2. For a detailed discussion on US energy security, see C K Ebinger *The Critical Link: Energy and National Security in the 1980s*, Cambridge, Massachusetts: Ballinger, 1982.
3. *Time*, 16 March 1987, p. 41.
4. Ross, D 'The Soviet Union and the Persian Gulf' in *Political Science Quarterly*, vol. 99, no. 4, Winter 1984-1985, p. 627.
5. A comprehensive study regarding the Soviet energy situation and its implications for western security is contained in B Stein *The Soviet Bloc, Energy and Western Security*, Lexington, Massachusetts: D C Heath, Lexington books, 1983.
6. Although Britain and France have stressed that they are acting independently, a policy of greater involvement has been welcomed in Washington. At the time of writing, Britain had proceeded with the reflagging of three Kuwaiti tankers, entitling them to British naval protection. The Italians have also made a tentative commitment and the Japanese have offered some financial support.
7. *The Economist*, 31 October 1987, p. 58.

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The New World Information Order

Introduction

After World War II, in 1946, the UN stressed the importance of the free dissemination of information by stating:

Freedom of information is a fundamental human right and is the touchstone of all freedoms to which the United Nations is consecrated;

Freedom of information implies the right to gather, transmit and publish news anywhere and everywhere without fetters. As such it is an essential factor in any serious effort to promote the peace and progress of the world; . . .¹

The Economic and Social Council of the UN was burdened with the task of effecting the freedom of information in practical terms.² This information was intended to address the economic and social problems of the various undeveloped nations. Since the Third World countries attained independence, they have become political pressure groups — a situation which has serious implications for the subject under discussion.³ The discussion around the free flow of information has deteriorated into a political debate,⁴ moving away from the original objective. Third World and socialist countries allege that biased views of them are disseminated throughout the world and that they have no control over this state of affairs.⁵ They insist upon the establishment of a New World Information Order (NWIO) to effect a more balanced flow of information, although the concept has had neither definite form nor substance before now but simply represented a vague set of principles.

South Africa is one of the countries that has often objected in the past to the 'biased and distorted' image conveyed by the world press. South Africa has however played no part in the Third World debate and very little has been published about the NWIO in this country. Van der Kooy⁶ writes in this regard:

Although it has gone largely unnoticed in South Africa, the trend has lately become visible in the form of news-sheets and underground papers in African townships. It is a form of protest against the establishment and its media; it provides a service to its supporters and it converts people to its way of thinking.

As establishment of an NWIO could create problems relating to the free flow of information in the future, the purpose of this article is to give a factual background to the proposed body. In this article the following aspects will be discussed briefly:

- (a) background to the NWIO;
- (b) criticism of and the legal implications of the NWIO; and
- (c) the future of the NWIO.

Background

The role of the press in Africa

The traditional European view of the role of the press has played an important part in Africa and this influence can still be discerned.⁷ Policy-makers nowadays are generally also the leaders of the states involved, with the result that the concept of freedom of the press differs from one state to another.

The purpose of the press in Africa is, seen as a tool, among others, to strengthen the pride and unity of the nation⁸ and one is not allowed to criticise the current government to any greater extent.⁹ The duty of the press is to educate the masses¹⁰ and press control is therefore a not unexpected development.¹¹ Many newspapers and other communication media, including radio, are state controlled.¹² In certain cases journalists cannot enter specific countries without a visa and local journalists are forced to register and obtain a license.¹³ Special agreements are reached with the foreign media regarding information to be released in certain countries.¹⁴

The reasons for the establishment of a NWIO

The following illustrates the principal arguments generally employed:

- (i) The NWIO must serve to counteract the western image of Third World and socialist countries. Each country should be able to control the information that is disseminated about itself.¹⁵
- (ii) At present 80–90 per cent of all news released is handled by four or five big European and North American news agencies.¹⁶
- (iii) The West threatens the sovereignty and national identity of the developing countries by using the media to force Western values and culture down their throats. This is referred to as 'cultural imperialism'.¹⁷
- (iv) The news released is usually orientated towards Western interests or is irrelevant to the Third World. It is used to strengthen Western interests or to ensure the economic and social welfare of Western countries by furthering the exploitation of Third World countries. The objection has been raised that the Third World countries' own journalists are used to further this purpose.¹⁸
- (v) Usually only negative publicity is given to matters such as political instability, violation of human rights, corruption, internal violence, natural disasters, and social and economic problems. Positive reporting on the progress made in the developing countries seldom occurs.¹⁹
- (vi) The lack of balanced information jeopardizes negotiations between

- governments. It obstructs the bargaining process and can lead to disturbances in internal security and order.²⁰
- (vii) Third World countries lag behind developed countries in technological terms. They are dependent upon the wealthier industrial countries that have established a quasi-monopoly in the area of communications technology.²¹
 - (viii) Third World countries object that press laws continue to condone, if not promote a subservient role for the Third World. They therefore call for law reform.²²

The role played by UNESCO

UNESCO is an international UN organization which aims to launch cultural, educational and scientific investigations and promote interaction in these areas.²³

For this reason, since 1946 it has become a forum for debate on matters concerning the mass media²⁴ and various resolutions have been issued in this regard.²⁵ Since the Sixties Third World countries have also become active in this debate and the idea of a more balanced flow of information was born.²⁶ The concept of a 'free and balanced' flow of information was incorporated in the UNESCO programme during 1974 in place of a mere 'free flow' of information.²⁷

1976

During the nineteenth session of UNESCO in Nairobi a *Draft Declaration on Fundamental Principles Governing the Use of the Mass Media in Strengthening Peace and International Understanding and in Combating War, Propaganda, Racism and Apartheid* was laid before the meeting. The document was politically inspired and no final decision was taken on it. It contained the idea of limiting the freedom of the press by imposing state control.²⁸ During the same session the International Commission for the Study of Communication Problems (the MacBride Commission) was appointed.²⁹

1978

In 1978 the *Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War*³⁰ was adopted, according to which journalists should not be restricted, but protected. The idea of state control was not included.³¹ Section X(2) defines the NWIO as follows: 'it is important that a free flow of information and wider and better balanced dissemination of information be encouraged'. Although the declaration could not put an end to the debate on the NWIO, it served as a preliminary compromise.³²

1980

In 1980 the MacBride Report was submitted.³³ It was supposed to represent a broad consensus on issues of fundamental importance. It mainly identified communication monopolies and contained no definition of the concept of a NWIO; only the framework within which the NWIO should develop was broadly outlined. Questions such as the following were not addressed at all:

- (a) The right of the inhabitants of a country to communicate freely;
- (b) the right of journalists to investigate matters without being harassed;
- (c) the necessity for a professional code of conduct for journalists;
- (d) the protection of journalists; and
- (e) the danger inherent in the existence of only a few major communication monopolies.³⁴

The report was never formally accepted or implemented by UNESCO.³⁵

Recent developments

In 1983 the ideological battle between the West on the one hand and the Soviet and Third World countries on the other grew more intense when the United States of America stated its intention to pull out of UNESCO should this body continue with the creation of an NWIO. To prevent this, a two-year programme was approved according to which various studies on communication problems were to be completed. In spite of this, the USA did pull out of UNESCO in December 1984 because of the organization's alleged politicization, mismanagement and its hostility towards a free press.³⁶ The USA's action illustrates the complexity of the problems facing UNESCO.³⁷ It remains to be seen whether the replacement of M'bow as its head will assist in their resolution.

The role played by other organizations

Apart from UNESCO, there are other organizations that provide technological aid to Third World countries by developing their communication systems, making it possible for them to become independent of the developed countries. One of these is the Intergovernmental Bureau for Informatics (IBI) which will, in all probability, become the new forum for agreements in the field of information dissemination.³⁸

There are others, such as the Gulf News Agency (for the Arabic states), CANA (the Caribbean News Agency), ALASEI (Agency Latino-Americana de Servicios Especiales de Information), PANA (Pan-American News Agency), and IPS (Inter-Press Service).³⁹ Most of these are, however, bound to specific regions. In those cases where bigger news agencies tried to report more comprehensively on Third World countries, they were hindered by control measures imposed on the press in these countries, which jeopardizes

the credibility of their reports.⁴⁰ In other words, these organizations have achieved very little in terms of reducing the dependence of the Third World on Western media services.⁴¹

Criticism of the NWIO concepts — with particular reference to the legal aspects

General criticism

- (i) The NWIO presents a vague set of principles. This results in different interpretations of its content.⁴² UNESCO, moreover, is not implementing a purposeful strategy for the establishment of an NWIO.⁴³
- (ii) Initially, UNESCO was the educational and cultural branch of the UN with the duty to disseminate information on these matters. It is, however, becoming increasingly politicized. The information debate, which was primarily a North-South issue, has now become an ideological battle between East and West. The Third World itself has no clear idea of the proposed structure of the NWIO.⁴⁴
- (iii) The concept of an NWIO as proposed by the Third World and Soviet countries will strengthen the idea that governments have the right to control the press to a greater or lesser extent.⁴⁵
- (iv) Certain Third World countries impede the flow of information by means of censorship. Western countries suspect them of using the NWIO to hide their failures.⁴⁶
- (v) The press in African countries does very little reporting on internal economic, social and cultural developments, leaving the bigger news agencies little to disseminate. Even neighbouring countries exchange very little local news. Therefore, western news agencies are consulted for information.⁴⁷
- (vi) It is impossible for all reporting to be objective. No state will be able to guarantee the neutrality of its journalists. At a purely human level, each journalist will interpret matters in his or her own way.⁴⁸
- (vii) Investigating commissions such as the *International Commission for the Study of Communication Problems* still have not found a solution. As no clear and perceptive definition of the NWIO exists, there is no framework within which the Commission can structure its practical projects. Various committees struggle with abstract principles and arguments. The investigations that are conducted are few and localized.⁴⁹
- (viii) The most important problem of all is never addressed — the dearth of technology and international market structures in the area of information. Third World countries are not assisted in reducing their

dependence on developed countries for information. UNESCO's debate stresses the content of a NWIO, instead of the practical problems of its establishment.⁵⁰

- (ix) A positive criticism is that in the heat of the ongoing debate, the considerable progress that has been made in improving the dissemination of information from Third World countries has not been sufficiently emphasized. Since the start of the debate, new regional, national and international systems have been developed to disseminate information. Although the successes have been limited, they signal a start.⁵¹

Legal implications

These centre mainly on two issues:

- (a) the transfer of technology to enable each country to improve its own information system; and
- (b) the control exerted by governments over information disseminated outside their countries.

Issue (a) has very few legal implications, but the second, (b), is important, as the concept of governmental control conflicts with international standards regarding the freedom of information.⁵²

It is in this area that general criticism against the whole concept of International Law emerges. At present, International Law is experiencing a time of crisis because of the changes taking place in the international community. New, heterogeneous communities have come to the fore, and their interests differ too much from those of existing communities to make possible the development of a single, fundamentally new legal system catering to all tastes. International Law is based on custom and agreement, but there is no mechanism through which all these customs or agreements can be enforced. The result is that a large area of International Law is vague.⁵³ Nevertheless, there are international standards regarding the following:

- (i) The *Universal Declaration of Human Rights*⁵⁴ declares, as has already been mentioned, that freedom of information is a human right and that it should be exercised without impediment. This declaration, however, has no legal status. The MacBride Report was rejected for being in contravention of this declaration.⁵⁵
- (ii) The *International Covenant on Civil and Political Rights*⁵⁶ provides in Section 19(2) for freedom of information in the following way: 'everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers.'

This right is not, however, an unlimited one, but is restricted where necessary for the protection of the rights and reputation of persons,

national security, public order, public health and morality. Only those countries who have signed the Covenant are bound by it.

- (iii) Both the *United Nations Charter* and UNESCO's constitution provide for the free dissemination of information. Once more, only those parties who have signed the constitutions are bound by them.

Most of the international standards established here are not legally binding, but they do contain important agreements and principles which the NWIO seems to contravene.⁵⁷ These standards are not applied in an unrestricted fashion, as certain limitations can be imposed in specific cases. After all, there is no country which enjoys complete freedom of the press. Even in the United States radio stations are subject to certain restrictions, although none of them can be seen as government controlled in the broader sense.⁵⁸ In all these cases limitations are concerned with the rights of the individual to freedom of information and not with the right of different states to communicate.

Conflict of perception and purpose

The state should protect the individual, but it is not quite clear who should protect the rights of seemingly subordinate groups such as Third World countries, and against whom they should be protected. In this case, it would appear to be the Third World in opposition to the developed countries. Developed countries should help the Third World and take affirmative action. The Third World would then have rights and developed countries would have duties. This would only be possible if a special right is created to organize this relationship. According to Condorelli,⁵⁹ this can only happen when a mechanism is found through which the international protection of human rights can be enforced, and when a true collective responsibility to render aid to other countries develops.

Even if such a special right existed, as well as the mechanism to enforce it, international standards will be interpreted differently by different countries. In western countries, for example, the individual is allowed to decide on his own actions, whereas the Third World purports to maintain the principle of collective interest. The individual is, to them, only an instrument to be burdened with certain duties in the interest of the whole group.⁶⁰

This is the reason why the Third World does not regard the NWIO concept as in breach of human rights. After all, a state should be able to determine what should happen within its boundaries. The journalist is therefore bound by the law of the country he enters. They do not regard the creation of an independent body of media experts for the control of journalists and a professional code of conduct as government control. These are merely measures by which the collective interest can best be served.⁶¹

It is clear from the above that there is no way in which the provisions of the

NWIO can be enforced at the moment. It would be impossible to determine the legal issues or implications before the political aspects have been resolved. There is not even agreement as to what non-commercial mass media would entail. It will take a long time, if ever, to reach legal consensus.⁶²

In general, western countries believe that the Third World should not be allowed to use international rules to enforce social reform, but will have to use the existing rules. It is therefore unlikely that new international legal rules will be created especially to accommodate them.⁶³

What is the future of the NWIO?

There is little doubt that the worldwide dissemination of information presents a very uneven pattern.⁶⁴ It is important that the imbalance should be righted, provided it does not interfere with international standards. It would be virtually impossible, for instance, to formulate a journalists' professional code of conduct catering for all points of view.⁶⁵

As there are advantages and disadvantages attached to both suggestions made by the West and the Eastern bloc, it is doubtful that the Third World would accept either. The choice, however, remains theirs.⁶⁶ It is also unlikely that either the West or the African countries would change their opposing views on press control.⁶⁷ It could therefore take years for the NWIO to come into being, if ever. Meanwhile, Third World countries will continue to be dependent on Western countries for information.⁶⁸ If an NWIO should eventually be created, objectives would have to be clearly defined, with practical recommendations.

If the Third World cannot solve the problem using the existing legal system, other ways will have to be found to redress the balance. The following suggestions are made:

- (i) The possibility of research, in the form of national and regional studies of the Third World, with emphasis on political, economic, social, cultural, and other related factors which influence the media, should be undertaken, as the Third World itself does not agree on the composition of the NWIO.⁶⁹
- (ii) Journalists must be trained professionally. UNESCO could assist with funds for such training.⁷⁰
- (iii) Independent organizations for the dissemination of information, like IPS, could be established at regional, national and international levels. Their approach should be supra-national to further the aims of independent reporting.⁷¹

The solution, it would seem, does not lie in legal or political debates. The only way in which the Third World can become independent of the developed countries is to acquire technological strength. This debate has no place in UNESCO, but the International Programme for the Development

of Communication (IPDC) could be used to provide the training and technology for the proper dissemination of information. In this way many, if not all, the political and legal problems could be solved.⁷²

Endnotes

1. Resolution 59(1) General Meeting first session 1946.12.14. It can also be found in section 19 of the *Fundamental Declaration of Human Rights* Resolution 217(111) General Meeting 1948.12.10.
2. Resolution 59(1). Cf also J-L Renaud 'A revised agenda for the new world information order: the transborder data flow issue' (1984) 34 *Gazette* 119.
3. M J Farley 'Conflicts over government control of information' (1985) 59 *Trulane Law Review* 1072; cf also Renaud 123. The Third World countries were convinced that they would achieve rapid economic growth after independence, resulting in competition on an equal footing with the West. In fact, their economic position weakened. The world's answer to this problem was the *New International Economic Order* (NIEO). This determined that resources be made available to the developing countries. Information was seen as one of these sources. Cf in this regard J Bartnick 'International information flow: The developing world perspective' (1981) 14 *Cornell International Law Journal* 333; PTC Yu 'The international News Flow problem — what can be done about it?' (1981–1982) 35 *Journal of International Affairs* 189.
4. J Becker 'From prejudice to dependency: conflicts on the way to a new international information order' (1986) 33 *Law and State* 50. T Schwartz 'The new world information order' (1983) 18 *Texas International Law Journal* 583.
5. Farley 1073; L R Sussman 'Independent news media: the people's press cannot be run by government' (1981–1982) 35 *Journal of International Affairs* 199.
6. R J W van der Kooy 'Review Media studies and the critique of development by Les Switzer' 1987 *Development Southern Africa* 4(2).
7. Cf in this regard D L Wilcox *Mass Media in Black Africa* (1975) 1–19. Colonial governments already provided examples of press control. A thorough study has been done on this subject by Wilcox.
8. Wilcox 29–34.
9. Wilcox 34–36.
10. Wilcox 36–37.
11. Wilcox 37–40.
12. Wilcox 45–70, 92–104.
13. Wilcox 73–90, 105–118.
14. Wilcox 117–118.
15. Farley 1073; A Gauhar 'Third world: an alternative press' (1981–1982) 35 *Journal of International Affairs* 165; Schwartz 573.
16. A Argumedo 'The new world information order and international power' (1981–1982) 35 *Journal of International Affairs* 81; Yu 189; Sussman (1980–1981) *Journal of International Affairs* 201; Schwartz 583; Fitzmaurice 'The new world information and remmunication order: Is the international programme for the development of communication the answer?' (1983) 13 *New York University Journal of International Law and Politics* 953; M L S Stewart 'Evolution of the principles of a new world information and communication order and international satellite communications in the light of the practice of United States Media: an analysis.' (1984) 16 *New York University Journal of International Law and Politics* 636; B Olasope 'The nonaligned news agencies pool' in P C Horton (ed) *The Third World and press freedom* (1978) 166–167, R Tatarian 'News flow in the Third World' in P C Horton (ed) 1.

17. Farley 1073; K Jakubowicz 'Third world news cooperation schemes in building a new international communication order' (1985) 36 *Gazette* 81, Renaud 121; Bartnick 338-339; Fitzmaurice 966; Schwartz 574-575; Tatarian 1.
18. Farley 1074; L Condorelli 'The new international information order and the law of nations' (1980-1981) 5 *Italian Yearbook of International Law* 128; Jakubowicz 89-90; S Magiera 'Eine "Neue Internationale Informationsordnung": Anfang oder Ende grenzüberschreitender Kommunikationsfreiheit?' (1981) 36 *Europa Archiv* 583; S O Shetsova 'Regulation of mass information by International Law' (1980) 19 *Soviet Yearbook of International Law* 52; Yu 189; Schwartz 585. J O Boyd-Barrett 'Western News Agencies and The "media imperialism"' (1981-1982) 35 *Journal of International Affairs* 256 are of the opinion that the Third World itself is to blame for this. By controlling the press, any information released by these countries is regarded with suspicion.
19. Farley 1073; Condorelli 128; Jakubowicz 81; Argumedo 181; Shetsova 53; Yu 198; Boyd-Barrett 255 257-258; Fitzmaurice 953; Schwartz 575; Olasope 168; J Oledzki 'Polish perspectives on the new world information order' (1981-1982) 35 *Journal of International Affairs* 157-160; Gauhar 173 are of the opinion that pressmen are not always properly trained. The result is that they don't necessarily understand the situation in a specific country and that they present a distorted view of events.
20. Renaud 122; Shetsova 54; Pavlic 'The new international order in information and communication' (1980) 31 *Review of International Affairs* are of the opinion that the Third World regards Western countries as manipulators of international relations by means of their reporting, in so doing swing public opinion in their favour. Cf also Argumedo 181.
21. Condorelli 128; Renaud 121; Argumedo 179; Magiera 583; Bartnick 334-336, 339; Stewart 636; Schwartz 573-574, 586; Olasope 168; D Dienné 'UNESCO and communications in the modern World' (1981-1982) 35 *Journal of International Affairs* 218-219, 221-222.
22. Condorelli 128; Shetsova 53. In contrast, Western press freedom will not be limited by any regulations.
23. Farley 1072; Ploman *International Law governing communications and information* (1982) 125.
24. Resolution 59(1). Bartnick 345; Diene 'UNESCO and communications in the modern world' (1981-1982) 35 *Journal of International Affairs* 219-220; Fitzmaurice 954.
25. Cf among others Resolution 110(II) General Meeting second session 1947.11.03; Resolution 127(II) General Meeting second session 1947.11.15; Resolution 227 A (III) General Meeting third session 1949.05.13; Resolution 314(IV) General Meeting third session 1949.10.21; Resolution 424(V); 425(V); 426(V) General Meeting third session 1950.12.14; Resolution 442(XIV) Economic and Social Council 1952.06.13; Resolution 630(VII) General Meeting 7th session 1952.12.16; Resolution 522A(XVII)-L Economic and Social Council 1954.12.17; Resolution 574B(XIX) Economic and Social Council 1955-05-26; Resolution 926(X) General Meeting 1955.12.14; Resolution 1313(XIII) General Meeting 1958.12.12; Resolution 1189(XII) General Meeting 1957.12.11; Resolution 718(XXVII) Economic and Social Council 1959.04.24; Resolution 732(XXVIII) 28 session 1959.07.30. Cf also United Nations *United Nations Action in the Field of Human Rights* (1983) 169-174.
26. Diene 220; Schwartz 957-958. Various resolutions were issued in this case: Resolution 756(XXIX) Economic and Social Council 295th session 1960.04.21; Resolution 888E(XXXIV) Economic and Social Council 297th session 1962.07.24; Resolution 1778(XVII) General Meeting 1962.12.07; Resolution 2916(XXVII) General Meeting 1972.11.09.
27. Renaud 125. At this stage the battle between the West on the one hand and the Soviet and Third World countries regarding press control had already begun. Cf Schwartz 575-576.
28. L Gross 'International Law aspects of the freedom of information and the right to communicate' in Horton (ed) 71-72; Schwartz 576; Becker 50; Shetsova 53.

29. Renaud 126; Schwartz 576; Becker 50. Resolution 31/139 General Meeting 1976.12.16 regarding the development of information media is also accepted.
30. Resolution 4/9 3/2 Unesco General Meeting 20th session 1978.
31. Farley 1075; Yu 191; Diene 220–221.
32. Bartnick 346; Fitzmaurice 960; Renaud 127; Schwartz 578; Becker 51–52. Other resolutions that were accepted are: Resolution 4/0.1 Unesco General Meeting 1978, Resolution 33/115B General Meeting 1978–12–18; Resolution 34/182 General Meeting 1979–12–18.
33. S MacBride *Many Voices, One World* (1980).
34. Gauhar 172; Sussman (1980/1) *Journal of International Affairs* 211; Argumedo 187–188; Diene 223–224; Bartnick 346; Fitzmaurice 962; Renaud 127; Becker 51. During the conference an 'International Programme for the Development of Communication' is submitted. Cf Resolution 421 UNESCO General Meeting 1980; Resolution 4/19 UNESCO General Meeting 1980. This was concerned mainly with the extension of technological resources. The USA and other Western states were prepared to accept these suggestions. Other suggestions, e.g. that journalists wear identity documents, were not accepted. This suggestion led to a conference of media leaders in Talloires in 1981, at which many of the MacBride suggestions were rejected. Cf Fairley 1075–1077; Diene 234; Bartnick 347; Fitzmaurice 962–963.
35. Farley 1076; Bartnick 346; Schwartz 579–580. Other resolutions and suggestions were, however, accepted by the General Meeting afterwards: *Recommendations of the Special Political Committee* General Meeting 33rd session Annexes Julie 1980; Resolution 35/201 General Meeting 1980–12–16; Resolution 36/149B General Meeting 1981–12–16; Resolution 35/201 General Meeting 1981 Resolution 37/92 General Meeting 1982–12–10; Resolution 37/94 General Meeting 1982–12–10; Resolution 39/98 General Meeting 1984–12–14.
36. Farley 1071 1078–1080; Stewart 637–639.
37. During 1986 the chairman General M'bow resigned. (1986–10–20) *Time* 32.
38. Bartnick 350–351.
39. Cf in general Jakubowicz 83–87; C A Giffard 'The Inter Press Service: New information for a new order' (1985), *Journalism Quarterly* 17–18 21 23; P Ivacic 'Towards a freer and multidimensional flow of information' in Horton (ed.) 135–150.
40. Boyd-Barrett 256.
41. Jakubowicz 87.
42. Fitzmaurice 964; Stewart 653; Pavlic 21–22.
43. Pavlic 21–22, P E Converse 'Power and monopoly of Information' (1985) 79 *The American Political Science Review* 7; Ploman 125.
44. Farley 1071; Schwartz 594; Fitzmaurice 964 972; Gauhan 170–171; Bartnick 352; Sussman (1980/81) *Journal of International Affairs* 214; Oledzki 158–159 164; Tatarian 35; L R Sussman 'Developmental Journalism' in Horton (ed.) 81–82; Converse 7; P Galliner 'Improving news flow in the Third World' in Horton (ed.) 94.
45. Farley 1071; Becker 53; Shetsova 57–58.
46. Boyd-Barrett 260; Fitzmaurice 972–973; Converse 7–8; Magiera 583; Gauhar 170–171 thinks it unlikely that these countries would ever permit an independent press.
47. Jakubowicz 88–91; Schwartz 583. The alternative to the NWIO offered by West Germany entails more media-orientated projects by the press. Cf Becker 55.
48. Sussman (1980/81) *Journal of International Affairs* 208–209.
49. Renaud 128; Pavlic 21; Tatarian 35.
50. Renaud 128–129; Tatarian 5.
51. Giffard 17.
52. Farley 1081–1084; Fitzmaurice 977–979.
53. Condorelli 123–124 131; Gross 55–56 72.

54. Resolution 59(1).
55. Farley 1084-1088.
56. Resolution 2200(XXI) General Meeting 21st session 1966-12-16.
57. Oledzki 160; Gross 59-64; Farley 1088; Fitzmaurice 983-986.
58. Schwartz 590-591; Galliner 94.
59. 132-133 135-136.
60. Condorelli 130; Gross 56.
61. Fitzmaurice 986-987; Shetsova 57-58. Gross 57-58 72, however, is of the opinion that countries could never be forced to participate in this type of dirigisme/state control.
62. Fitzmaurice 987-988.
63. Condorelli 138.
64. Farley 1088; Jakubowicz 91; Renaud 128.
65. Farley 1088; Schwartz 595; Bartnick 352; Magiera 583-584; Condorelli 137.
66. Galliner 93.
67. Wilcox 159-160.
68. Fitzmaurice 988.
69. Becker 62; Diene 224; Pavlic 21.
70. Becker 61; Yu 193-197; Tatarian 42-45; Galliner 101-103.
71. Giffard 17; Becker 61; Sussman (1980/81) *Journal of International Affairs* 208 216; Gauhar 177; Tatarian 54; Galliner 93-98.
72. Farley 1088; Schwartz 62-63; Diene 218; Bartnick 353; Pavlic 23; Oledzki 160; Galliner 99-103. UNESCO can, of course, also control the distribution of technology, as long as it is done without the influence of politics. Cf Renaud 130 and Fitzmaurice 988-995 in this regard.

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Book Reviews

SOUTH AFRICA AND INTERNATIONAL RELATIONS BETWEEN THE TWO WORLD WARS: THE LEAGUE OF NATIONS DIMENSION

Sara Pienaar

Witwatersrand University Press, Johannesburg, 1987, 207 pp.

This is a very useful monograph on a neglected theme. South Africa's external relations in the inter-war years have usually been glossed over by historians in favour of more recent events post 1945. The formulation of Pretoria's foreign policy has been mostly seen within a Commonwealth framework and dominated by the towering figure of General Smuts. Though it is acknowledged that a Department of External Affairs existed from 1927, its general weakness as an arm of government leads historians to the conclusion that an independent foreign policy did not really exist before 1945 and the real action does not begin before External Affairs acquired a new dynamism under Eric Louw in the middle 1950s.

Pienaar's well-researched analysis throws much light on foreign policy debates in the post 1945 years. The issue of South African participation in the League of Nations helped positions to crystallise, especially when key crises loomed, such as the Italian invasion of Abyssinia or South Africa's sovereignty over Namibia. South Africa was a strong supporter of sanctions against Mussolini though the representative at Geneva, Charles te Water, found himself somewhat isolated on the issue. A boycott of Italian goods was essential, he argued, for the maintenance of European imperial authority in Africa and he also feared the creation of an armed African army in Abyssinia by the Italians. The Purified Nationalists, on the other hand, led by D F Malan, were critical of sanctions which they felt would alienate Italian friendship. At this time, it was already clear that the Nationalists were beginning a strong lurch towards isolationism which was to become even more marked at the time of the debate on South Africa's entry into World War II in September 1939.

One of the key conclusions to emerge from the study is that the figure of Smuts has been somewhat over-rated in the formulation of foreign policy during this period. Despite having a considerable international reputation from being one of the founders of the League and the author of the essay *The League of Nations — A Practical Suggestion*, Smuts was out of power for much of the 1920s and 1930s and never even visited Geneva. Perhaps Smuts, the international visionary, found the actual realities of global power politics too much to stomach at first hand. What is clear, though, is that the period was an important one for a number of South African figures, especially the League representative te Water who was High Commissioner in London between

1929–1939. Though neglected by most historians (especially after his ill-fated period as Malan's roving ambassador in 1949), it is clear that de Water had quite a shrewd understanding of global politics, though on occasions he could invoke the displeasure of the British Dominions Office. At the same time, the period was a vital one for the apprenticeship of Eric Louw who visited Geneva only once and disliked what he saw.

Pienaar argues that the South African record at the League was fairly untarnished, certainly in comparison to the disastrous experience with the UN after 1945. Her understanding of the League of Nations records at Geneva is perhaps faulty at this point; it seems clear that the application of domestic segregation policy to the mandate of Namibia was causing some international concern by the 1930s, though the Permanent Mandates Commission did not wish to cause any South African displeasure over the issue. The period was, as Pienaar notes, one of moral transition from the high point of European imperial self-confidence before 1914 to the post war era of decolonisation post 1945. The League as such was not a body committed to the active promotion of civil rights issues, unlike its UN successor. But this does not mean that it did not act as a body that could articulate various forms of international political opinion and the 'curious' documents that Pienaar notes which were sent by petitioners to the PMC over the Namibian issue, were a harbinger of things to come, especially when the UN decided, unlike its predecessor, to hear petitioners in person, so providing a valuable platform for activists like Rev. Michael Scott.

Indeed, one of the chief weaknesses of the book is its limited grasp of the emerging climate of radical Pan African ideas which had some impact on black political thinking in South Africa itself. At some points Pienaar has endeavoured to test Black South African awareness of international issues, especially the Italian invasion of Abyssinia. She could clearly have done far more research on this very important aspect of South African historiography, for in this period a number of important connections were forged by African leadership with overseas black opinion, especially in the United States. This lobby has to be seen alongside the mainstream left-wing opinion in South Africa which often condemned the League as an agent of international imperialism, though by the middle 1930s the Communist Party had changed its line following the Nazi accession to power in Germany in 1933. At the time of the sanctions campaign against Italy in 1936 Pienaar points out that the South African Labour and Communist Parties found themselves aligned with Colonel Stallard's Dominion Party in support of sanctions.

In the final analysis, though, the League was a distant body for most South Africans, whether Black or White. Despite a small League of Nations Union in the Cape, modelled on the British organisation led by Gilbert Murray (who served as South Africa's first representative at Geneva) there was no strong body of opinion in enthusiastic favour of League ideals. Smuts hoped

it would complement South African participation in the Commonwealth for, as he wrote to L S Amery in 1926 'If the League goes, it may endanger in its débâcle the whole imperial system for which at present it forms a considerable part'. However, the increasingly evident failure of the League by the middle 1930s dashed these hopes and drove South Africa back towards supporting the Commonwealth. And so Smuts's time was to come again between 1939 and 1945. The longer-term importance of this political about-turn manifested itself in growing Afrikaner Nationalist disillusion with international bodies and the decision after 1948 to play a more isolationist role in world politics. Thus the experience of membership of the League would have an important impact on future South African politics.

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SOUTH AFRICA UNDER APARTHEID

Jacqueline A Kalley

A select and annotated bibliography.

Shuter and Shooter in association with Institute for Social and Economic Research, Rhodes University, Grahamstown, 1987, 544 pp.

In *South Africa Under Apartheid*, Jacqueline Kalley has painstakingly and accurately assembled all the important titles of the writings in both local and foreign books and journals on the South African political system, in a bibliography of 1 100 entries.

Kalley says in the preface to her bibliography that apartheid permeates 'all political, economic, social and religious facets of the country's life', and therefore this bibliography is interdisciplinary in its coverage.

South Africa Under Apartheid is subtitled 'a select and annotated bibliography'. Kalley does not say what her criteria are for selecting her entries. Nevertheless, the bibliography appears to be extremely comprehensive and contains all the major writings on apartheid, and in particular those writings which have appeared since the late 1970s when the literature on the subject began to grow enormously.

Each entry in the bibliography has been numbered and arranged alphabetically by author and title. Also each entry has been annotated, that is a 'succinct guide to the content and relevance' of each article has been provided. The annotations should be extremely useful in providing a quick overview of the contents of each entry.

The bibliography contains two indexes, an author index and a subject index. They contain references to other bibliographies and in order to gain the maximum benefit from this bibliography, the other bibliographies should also be consulted. For example, Kalley has compiled a comprehensive

bibliography on the Transkei which should be consulted for more detailed references on that region.

South Africa Under Apartheid appears to be right up to date in referring to recent books published and only slightly behind when referring to recent journal articles published.

Kalley has produced a most valuable and useful guide for use by the academic, librarian, student, researcher and interested person to the almost bewildering body of literature on South Africa. The bibliography has appeared timeously and it is hoped that it will be updated periodically.

Clive J Napier

South African Institute of Race Relations

Two reviews were received on *South Africa in crisis*. They were so dissimilar in character and content that we felt it would be instructive for readers to compare the two and even — with appetite whetted — to purchase the work.

SOUTH AFRICA IN CRISIS

edited by Jesmond Blumenfeld

Croom Helm, London: 1987, 207 pp.

This short, neatly organized volume focuses on South Africa in its crisis stage. It reviews the highlights of recent history but tends to be a bit overly alarmist.

As editor, Blumenfeld starts with the 'growing disarray within ... the ruling National Party in particular'. The mid-1987 election however did not bear out this assessment. In line with this somewhat cataclysmic orientation of the book, Blumenfeld identifies 21 July 1985 as the start of the siege. For Meredith and for Baynham in separate chapters, the crisis is pinpointed to 12 June 1986. These disparities demonstrate agreement on the alarmist views by various contributors to the volume, but they differ on precise details.

The writers, with one exception, are all British-based, which is where the book will no doubt be of greater utility than in South Africa, where most attentive observers who have lived in this country will be familiar with these recent developments. This recent history presents little in-depth analysis or attempts at new perspectives, with the exception of Blumenfeld's short analysis of the economy and Baynham's on violence and the security response.

Forsyth's review of constitutional proposals is thorough and brief — but covers no new ground. And it is dated in his reference to the NRP's five seats — which have been pared down to one in the recent election. We are left to

wonder about the survival of the NRP's constitutional thinking, on which he writes perhaps more than it now warrants. The numerous constitutional positions are presented in a useful synoptic form but no overall comparative assessment or critical evaluation is offered.

Foreign Policy is reviewed by Spence. The stress here is on the domestic origins of foreign policy decisions. This is useful but we don't learn much about South Africa's actual relations with the external world. Yet another bias is evident. When he discusses sanctions, the Europeans are identified much more prominently than the Americans, which is a perspective not so evident in South Africa. British efforts as in the Commonwealth's Eminent Persons Group also overshadow America's constructive engagement which barely receives a mention. And Namibia? It receives less than a page. This chapter lacks balance and a more comprehensive coverage.

While most contributors are 'moderates' and well known to South African audiences, two chapters are conspicuous by their more subjective orientations. Lipton presents some interesting data and a good analysis of workers and apartheid. But she notes that the tricameral parliament is 'bizarre' and she refers to the national states or homelands as 'bantustans'. This orientation is not echoed by the other authors. Similarly, Vale in his discussion of South Africa's regional policy cannot resist the opportunity to refer to the South African Government within its apartheid context: 'apartheid's sphere of influence', 'apartheid's foreign policy', 'an alliance between capital, apartheid and the West', 'apartheid's purse' etc. Now, I know what apartheid is at South Africa's domestic level, but exactly what is an 'apartheid foreign policy'? If by this he means a diplomatic policy calculated to keep the government in power, then virtually every government in the world can be accused of pursuing such a policy.

The least convincing chapter is that by Uys. He ranges over the Afrikaners, parliament, and extra-parliamentary opposition forces but it is not a thorough examination. Written well before the 1987 election, this chapter is badly dated and the repeated bias towards the PFP is unwarranted. He refers to a 'widely held view that some 30 NP members of Parliament would be willing to align themselves with the PFP'. That is journalistic licence in the extreme. And Colin Eglin is quoted as expecting up to 55 PFP seats within a few years. In another perplexing section, Uys discusses white extra-parliamentary forces and refers only to the very far right, the business community and the security establishment. This hardly exhausts the dissenters. And while IDASA had not yet undertaken its highly visible Dakar trip at the time of writing, Uys's review of white politics with his ebullient optimism about the PFP's fortunes, manages to exclude even a single mention of Van Zyl Slabbert in either of his two capacities!

Finally, one unfortunate inclusion must be lamented. One author refers to another professor writing in the field of international relations as a

'reactionary'. This term is incorrectly used and the pejorative connotation does not belong in this otherwise scholarly volume. Such emotionalism can only be counterproductive for a volume which addresses a sensitive international political issue and should not be the vehicle for introducing old personal animosities to the public.

The volume is a quick, short review of South Africa's last few years. But because it lacks balance in terms of uneven qualitative contributions, little depth or original analyses, and does not venture into the area of change, its overall utility will remain very limited.

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SOUTH AFRICA IN CRISIS

Edited by Jesmond Blumenfeld

London: Croom Helm 1987

Among the extensive literature on South Africa generated over the past few years, *South Africa in crisis*, published under the auspices of the Royal Institute of International Affairs, surely ranks as one of the better introductions to the present state of affairs and affairs of state in this country. Despite some caveats and a few important conceptual problems to which I will return, this collection of eleven essays by notable scholars and journalists succeeds in presenting a detailed and critical overview of present day South Africa without lapsing into the tendentiousness and sensationalism typical of many recent journalistic surveys.

The book's main attraction lies in the range of topics discussed. Blumenfeld and Merle Lipton both cover *the economy*: Blumenfeld presents the case for and against sanctions succinctly, questioning the one-sidedness of both proponents and opponents of sanctions, and arguing that actual or threatened sanctions have both a retarding and a stimulating effect on reform. Lipton in turn highlights *the economic inducements for change* and, although she correctly identifies the reform strategy until 1985 as ambiguous and half-hearted, she effectively lays to rest the erroneous notion that what little change there has been is only cosmetic.

Stanley Uys reviews *the trends in white politics* and, although his analysis is dated (preceding the May 1987 elections) and sometimes superficial, he does make the valid point that the National Party faces a serious succession crisis. He could have added that any future successor will face the difficult choice between either continuing a patron-client relationship with the security establishment or taking the considerably more onerous task of actively reining in this establishment, in order to restore civil control over government. This question is highly relevant since, as Simon Baynham illustrates in his excellent essay on *political violence and the security response*, the

South African security apparatus has not only become the major player in security politics in the wider sense of the word, but has also itself emerged as an agent for reform. Evidence of the latter is to be found in the current active application of counter-revolutionary, 'hearts-and-minds' measures to improve the standard of living of the black populace in the hope that this will relieve revolutionary pressure 'from below'. This strategy, based on the work of the veteran Vietnam commander, McCuen, has been employed fairly successfully in SWA by Lt.-Gen. Charles Lloyd. Given that General Lloyd is now Secretary of the State Security Council, it can be expected that this strategy will be applied in South Africa itself.

Murray Forsyth and Adrian Guelke discuss *constitutional options for South Africa and for divided societies in general*. Both contributions are solid, yet seem irrelevant to current conditions, since the constitutional debate has been replaced by the more immediate problem of how to get comprehensive negotiations going, given the high level of polarization in the country.

Peter Vale and J Spence contribute two essays on *South African foreign and regional policy* respectively. Spence portrays the South African state as under siege; a country whose attitude towards the outside world is likely to harden even further if present trends continue. This in turn would further diminish the likelihood of foreign pressure leading to accelerated reform. Vale looks at the other side of the coin, i.e. the effects of South Africa's ruling class's isolation on their regional policy. In a well-argued essay he highlights the dual nature of South Africa's desire to incorporate the region in an extended defence of continued National Party rule. South Africa has tried economic pressure to persuade its neighbours to participate in an unequal regional system, while also using military action to coerce those generally reluctant bedfellows into a closer embrace. Vale is careful to distance himself from a 'conspiracy theory' which sees South Africa's policy as the realisation of a masterplan for regional dominance. It is difficult, even so, not to agree with him that the cumulative result of different and sometimes conflicting aspects of South Africa's regional policy has been an extensive and multifaceted 'compulsion to incorporate'.

Lastly, two chapters by Robin Smith and Martin Meredith deal with *trade union and black politics* respectively. Smith perceptively traces the development of (black) trade unionism from 'economism' to politics, while Meredith gives a short overview of trends in black politics in general.

It is impossible in this review to comment on all the aspects raised by these essays. There are, however, two issues that require comment: the first relates to the analysis of white and black politics by Uys, Meredith and Spence. Despite the high standard of description, very little attempt has been made to penetrate beneath the institutional forms of black and white politics to the attitudinal and dynamic level. Attitudinal survey data have become readily available in the past few years and, while there are doubts on the reliability of

black survey data (given the high level of both state and extra-parliamentary opposition intimidation), some important generalizations can be made. Perhaps the most striking feature of black attitudes is its ambiguous nature. For instance: while up to thirty-five per cent of Blacks support the ANC in general, about half that number does not accept violence as a legitimate means to effect change. While black anger has increased markedly since 1977, some seventy-five per cent of Blacks still believe in a negotiated settlement. In addition, generational differences are reflected in the survey data, with the younger generation less inclined towards compromise. Yet, even among black youngsters, radicalism has not reached the proportions some alarmists would have us believe.

Surveys of white attitudes show a similar ambiguity, although the issues at stake are different. While Whites tend to be paranoid about security (the ANC) and have their prejudices fed by an equally paranoid (or cynical?) state propaganda machine, the majority of Whites are amenable to significant socio-political changes and, on the issues of group areas and power-sharing, are even ahead of National Party thinking.

My concern is that those essays dealing with white and black politics have completely ignored these realities and therefore paint at best a one-sided and at worst an overly alarmist picture of 'the South African crisis'. Because these attitudinal ambiguities tend to cut across institutional boundaries, an excessively formal approach to South African politics ignores the undercurrents which desperately search for productive channels of expression.

This brings me to the major conceptual shortcoming of this collection: its failure to define adequately the nature of the crisis in South Africa. It is understandable that in 1986, when this book was conceived, a high level of alarmism would exist. Then, the level of violence and disturbances in the country reached an unprecedented high and foreign media coverage (until the end of 1985) painted a picture of a society in crisis. While it would be foolish to disregard the continuing dimension of crisis, this collection does not reach an adequate understanding of the real nature of 'the crisis'.

At bottom, the problem is one of a ruling oligarchy which, while increasingly losing legitimacy in the broader community, tries to regain lost ground through a combination of repression and welfare policies (the carrot and the stick), whose ultimate failure is predictable. Authority does not seem to realise that legitimacy derives more from the *process* and less from the *results* of governing. If, therefore, there is a crisis in the country, it has to do both with the failure of government to pursue those legitimizing processes and also the inability of other actors to force the government to do so.

The contributions in *South Africa in crisis* help us to understand the way this crisis manifests itself on different levels. Yet the failure of the editor to draw the different perspectives together in a unified definition of 'the crisis' creates

the erroneous impression that we are experiencing a cumulation of *different* crises across the whole of public life when these are in fact manifestations of only one, albeit a pervasive, crisis. With this in mind, a better title for a book of this sort would have been *The crisis in South Africa*, but then it would not have satisfied the appetites of foreign readers for sensationalism about this country . . . or would it?

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South Africa and International Relations between the Two World Wars

The League of Nations Dimension

Sara Pienaar

(former Manning Research Director of the SAILA)

Dr Pienaar's book is concerned with South Africa's part in the League of Nations and, through it, with the wider world of international relations to which South Africa was directly exposed for the first time.

In the 1930s the two Prime Ministers, Hertzog and Smuts, together with several other prominent South Africans, found that the League's fortunes and their own were closely linked, while the two main features of South Africa's present difficulties with the United Nations — South West Africa/Namibia and domestic policies towards the country's black majority — were already factors in Pretoria's relationship with the League.

While domestic preoccupations featured prominently in the shaping of South Africa's League policy, constitutional changes in Dominion status and the maturing of the Commonwealth concept also played their parts. Consequently this book is intended to interrelate the domestic, Commonwealth and international environments within which the Union government's foreign policy had to be shaped during a period in which today's preoccupations are, in the light of historical hindsight, already clearly discernible.



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