

**“Cyril’s eyes lit up.” Roelf Meyer, Francois Venter, the Afrikaner Broederbond and the decision to abandon "group rights" in favour of a "regstaat" (constitutional state)**

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(This paper is distinctly a work in progress. It is based essentially on archival records. I still look forward to interview with participants. Please quote only with my permission. ([moodie@hws.edu](mailto:moodie@hws.edu)))

Political division within Afrikanerdom in the early 1980s hit the Broederbond as hard as it hit all other Afrikaner institutions. The establishment of the Tricameral Parliament was a turning-point not only because it precipitated uprisings in the African townships, but also because the establishment of the Conservative Party under Andries Treurnicht irrevocably divided Afrikaners against themselves. Afrikaners had a long history of fractiousness, but the attainment of political power after 1948 focused their unity, despite intense internal debate and occasional small *afskilferings* (breakaways) to the left or the right. The word Afrikanerdom came to refer explicitly to Afrikaner state power and the party held most of the factions together.

In 1982, Afrikanerdom split decisively down the middle. The Broederbond was equally split. Carel Boshoff, the conservative chair of the Broederbond Executive Council (*Uitvoerende Raad*) was obliged to resign in 1983. Thereafter, the monthly Broederbond Circulating Letters (*Omsendbriewe*), which were read aloud at local meetings, carried a drumroll of resignations. It was 1985 before Pieter de Lange, the newly elected chair was able to restore a modicum of order to the organization and to bring back focus to its deliberations. De Lange, who was rector at the Rand Afrikaans University, returned the organization to a reformist path that had been pioneered by Gerrit Viljoen (ironically enough de Lange’s predecessor at RAU). Viljoen had seen the writing on the wall in the aftermath of the Soweto Uprising in 1976,<sup>1</sup> but his replacement as Broederbond chair by Andries Treurnicht and then Carel Boshoff kept the organization firmly within the “confederation of separate states” Verwoerdian constitutional mode. As the townships exploded in 1984, de Lange inherited a rudderless organization and worked hard (eventually full-time) to give it a new direction.

Since at least the establishment of Verwoerd’s Republic in 1961, the Broederbond Executive Council had appointed various committees or task-forces to consider the question of the “constitutional development of the black man” (*staatkundige ontwikkeling van die swartman*). Such deliberations in earlier years dealt with separate development of black “homelands”, but under de Lange the committee changed its focus toward constitutional reform more generally. Now named the Committee for

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<sup>1</sup> For a useful brief summary of the transformation of the Broederbond after 1976, see Welsh, 2009:197-203. For Viljoen, see also Moodie, 2009.

Constitutional Policy (*staatkundige aangeleentede*<sup>2</sup>) under the vigorous leadership of Tjaart van der Walt, this committee addressed directly the question of constitutional change for South Africa as a whole.

In an address to a *Mini-Bondsraad* in 1986, Van der Walt stated explicitly that, since 1976, the Broederbond had been missing the mark in its efforts to keep ahead of South African political events:

A quarter century ago the Broederbond (AB) appointed for the first time a task-force to attend to relations with and the development of the Black man.... What have we achieved thereby...? There have been highpoints..., but alas there have also been too many lost opportunities. For example, in 1976, the committee totally missed [the coming of] the Soweto disturbance because we were so locked into ideological dogmatism that we could not read the signs of the times. It is then not so strange that the committee totally unraveled, [not meeting at all] when its insights were most needed. It was only in 1985 (just last year)....that the Executive Council, under the leadership of its new chair, defined a new set of priorities, one of which was constitutional development, especially in regard to urban Blacks.

With its emphasis on the development of a confederation of separate “homelands”, van der Walt was saying, the Broederbond had literally overlooked the significance of permanent black urbanization<sup>3</sup> taking place under its nose in the so-called “White” areas. Van der Walt admitted that his committee was scrambling to catch up with changing events, but, he insisted, they were now focused on matters of public policy, anchored “in civilization, *Afrikanerskap*, especially Christian faith.” They were also determined to be in the vanguard, “to discover new terrain, to be not only pathfinders but also path-makers.” “We need to know what we want,” he added, “and how to concretize that in the form of possible constitutional guidelines and even different models.”

Many of Van der Walt’s aspirations for the Broederbond were met over the following five years. In August 2007, when I interviewed Roelf Meyer in Pretoria, for instance, he mentioned that at a crucial

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<sup>2</sup> Henceforth, *Staatkundige* Committee. There is a slight problem of translation here. In Afrikaans there are two words for “political”, *staatkundige* and *politieke*. The differences between them are subtle but important. *Politiek* tends to refer to political practice, whereas *staatkundigheid* refers to political policy. Thus, for example, whereas a politician can certainly be referred to as a *staatkundige*, an academic (a political scientist or a constitutional lawyer) would usually not be referred to as a *politikus* (except, perhaps, as an insult), unless he or she is directly engaged in political action – usually, in fact, party-political action. Thus, the traditional Broederbond distinction between *kultuurpolitiek* and *partypolitiek* (fuzzy as it always was) was not contravened by the formation of a committee for *staatkundige aangeleentede*. A committee for *politieke aangeleentede* would have been sailing much closer to the line. It is on the advice of Judge Louis Harms that I use “constitutional policy” for “*staatkundige aangeleentede*”. This seems to fit quite well with what the committee actually did. Note that “policy” discussions in the Broederbond made a genuine effort not to prescribe but rather to debate policy issues. Specific decisions on policy were a matter for political parties. There were, at this stage, of course, two political parties claiming to represent the Afrikanervolk – the People as a “nation” – apart from or amongst other Peoples or “nations.”

<sup>3</sup> Flip Smit told me that he spent much time presenting his work on black urbanization to various Broederbond audiences (including the Executive Council) during this politically difficult period as “friends” were struggling to come to terms with the implications of the Soweto Uprising. Piet Cillie certainly read the writing on the wall.

point in the negotiations, Francois Venter, “a law professor from Potch,” had drafted a position paper.<sup>4</sup> When it was presented to Ramaphosa, Meyer said, “Cyril’s eyes lit up.” After that, he added, “it was plain sailing.”

Intrigued, I sought an interview with Venter. For various personal and logistical reasons, we were not able to meet until 2011, at which point he simply said that he was following international best practices in his constitutional proposals before moving on to talk about other matters. By then, however, I had worked through the Afrikaner Broederbond archives and discovered from minutes of the *Staatkundige* sub-committee that Venter actually chaired that committee in 1993 and 1994 and had joined it in 1988.

Roelf Meyer met frequently with the committee (as did Tertius Delport) Wimpie de Klerk and Gerrit Viljoen were permanent members. Pieter de Lange attended meetings regularly. At the outset, as we have seen, the committee was chaired by theologian, Tjaart van der Walt, rector at Potchefstroom University. After Van der Walt and prior to Venter’s chairmanship, the committee was chaired by Andreas van Wyk, who had been director-general for the department of Constitutional Development and Planning from 1984-88 and who became the rector of Stellenbosch University in 1993.<sup>5</sup> It is impossible to conceive that this committee was irrelevant to the National Party approach to negotiations. If the negotiated South African constitution was an elite pact, the Broederbond were certainly an important (and fairly extensive) part of the elite.

I have long contended that the Broederbond never ruled South Africa (Moodie, 1980). After 1948, that was the job of the National Party.<sup>6</sup> Once power had been attained, Broederbond informal networks certainly advanced the personal careers of “friends”, however. Moreover, it is clear from Broederbond minutes that broers had easy access to “friends in responsible positions” (meaning “broers” who were also members of parliament, civil servants and government ministers). The Broederbond always saw itself as merely an Afrikaner cultural organization, but it also insisted that culture necessarily had moral and political implications. This meant the organization sometimes sailed rather close to the political wind. There can be no doubt of Broederbond influence on South African political events.

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<sup>4</sup> Meyer’s (1999:17) brief autobiographical notes also make mention of Francois Venter’s document (Document F) which he dates to June 1992. Meyer also mentions Potchefstroom academic, Johan Kruger, among several others as an important influence. Welsh (2009:456-7) also refers to Venter’s document. It was sent to Mandela, Welsh reports, on July 2, 1992, immediately after the Boipatong massacre. This means that the “Venter” turning-point came in the “channel” at one of the most difficult moments in the extended negotiations between NP and ANC.

<sup>5</sup> Other longstanding members included LS Swanepoel, who seems to have had special (and not uncritical) expertise about the “independent” Bantustans and OAW van Zyl, whom, I am told, was an engineer who belonged to the Transvaal provincial government and whose expertise was local government (*streekregering*), and Ignatius Rauchenbach, Professor of Development Studies at RAU. PJVE Pretorius, whom, I was told, was a wealthy farmer from Vaalwater in the Northern Transvaal, Chris Martiz, a Potch-trained colleague of Rauchenbach at RAU, and HO Monnig, an anthropologist who seems to have been in the Lebowa administration in the North-eastern Transvaal, and Judge Willem Booysen joined the committee in 1988 around the time that Venter did.

<sup>6</sup> Before 1948, during the second World War, political divisions between the Party and the Ossewa Brandwag also split the Broederbond.

Under Verwoerd, the Broederbond was used to stamp out dissent in Afrikaner ranks and under Vorster, it was packed with security officers to keep it firmly under Party control. PW Botha's military response to "total onslaught" was not at all a Broederbond project, however – although, of course, many of those involved were members of the Broederbond. Behind Botha's militarization, however, and despite his belligerent and blustering style, he was also undertaking reforms. As Stoffel van der Merwe quite rightly pointed out to me, there were very few apartheid laws still on the books when FW de Klerk came to power. The Tricameral Parliament under Botha's presidency had abolished most of them.<sup>7</sup> Although Botha never intended to do away with white control, he and his government were certainly intent on abolishing the racially based legislation of the apartheid years.<sup>8</sup> Militarization and reform were not necessarily incompatible, but the Broederbond consistently focused on the reform aspects of Botha's policies.

### The Question of Survival

In 1952, the great Afrikaans poet and commentator, Van Wyk Louw, penned an essay on "liberal nationalism" that continued thereafter to echo subliminally amongst Afrikaners of all political stripes. The most famous passage read as follows:

Suppose that a People (*volk*) has come into the narrows – finding that it must mount a life or death defense; it summons up all material and political powers, guards and marshals its spiritual, technical, intellectual assets, does everything it can to survive.... Then it comes before the last temptation: to believe that bare survival is preferable to *survival in justice*.... This is the lasting temptation awaiting a People in their desert days – the biggest almost mystical crisis before which a People can stand. I believe that in a strange way this is the crisis from which a People appear, reborn, young, creative. This "dark night of the soul" in which it says: I would rather perish than survive through injustice.<sup>9</sup>

In June, 1986, the Broederbond Constitutional Policy committee circulated to all local branches a document which echoed Van Wyk Louw's famous passage. Entitled, *Basiese Staatskundige Voorwaardes vir die Voortbestaan van die Afrikaner*<sup>10</sup> (Basic political policy conditions for the survival of the Afrikaner<sup>11</sup>), the document argued for a contemporary version of "*voortbestaan in geregtigheid*" (survival with justice). Afrikaners were indeed "in the narrows" the document seemed to say. Things had to change. There were no serious alternatives. Continued Afrikaner domination spelled both a political and moral "dark night of the soul." The policies proposed by the Conservative Party under Treurnicht represented "bare survival...in their desert days."

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<sup>7</sup> The foundational legislation of apartheid still remained on the books, however. De Klerk got rid of the Racial Classification Act and the Separate Areas and Separate Amenities legislation during his first year in office as President, thus abolishing the entire legislative structure of the apartheid state.

<sup>8</sup> The most thorough account of the Botha years remains Price, 1991.

<sup>9</sup> Louw, *Versamelde Prosa I*, p 462.

<sup>10</sup> AB, 10/32/2 (1) (AB refers to the Afrikaner Broederbond archives, housed in the Erfenisstigting at the Voortrekker Monument in Pretoria). Translations are my own.

<sup>11</sup> Henceforth Broederbond documents referred to it as BSV. I shall do the same.

The *Basiese Staatskundige Voorwaardes* (BSV) document was the Broederbond response to the crisis. Rights claimed by Afrikaners must apply to all other groups and individuals in South African society, argued BSV. No group should dominate any other. Entrenched racial or ethnic rule must be abolished. The state must rule on behalf of all its subjects, regardless of race or ethnicity, favoring none. Indeed, the document added, black participation at every level of the political process was essential for Afrikaner (and white) survival. This meant that the head of state would not necessarily be white, although the power of that office should be limited so as to avoid group domination. Thus, the document added, “the rights and aspirations of groups must be protected and satisfied.” Eventual constitutional negotiations for a new system should include as wide participation as possible from all power groups, else their exclusion would doom it to failure.

As always for white Afrikaners, it was difficult to know whether to define “groups” in racial or ethnic terms. Mother-tongue education was essential for meaningful survival of the Afrikaners, the document insisted. At the same time, BSV noted that Afrikaans as mother-tongue crossed racial lines (at least as defined by apartheid laws). Thus, it said, “although language and cultural rights of groups are of cardinal importance,” it was nonetheless important that they not be artificially broadened so as to imply “exclusive white control.”

To complicate matters further, the document added that group boundaries were not absolutely fixed:

Freedom of association, including the right to associate and the right not to do so, is relevant – this includes thus also recognition of the formation of an open group. Ethnicity is important and also a reality in regard to the identification of minority groups and communities, but it does not imply the reification (*verabsolutering*) of group rights.

Freedom of association thus also implied a right to voluntary “open” urban neighborhoods. While this would not necessarily threaten the survival of the Afrikaner, the document was nonetheless cautious on the matter.<sup>12</sup> “Separate neighborhoods are currently desirable,” it read, “from an order point of view,” but could not be justified as a matter of principle. Even as for the NG church in the nineteenth century, segregation was affirmed because of the weakness of some.

The document ended on a dramatic note. “Humanly speaking, there are no guarantees,” it stated:

We have to think in terms of likelihoods, of reasonable risks. The greatest risk we face today is to take no risks at all. Our will to survive as Afrikaners and our energy and faith is the strongest guarantee. If the Afrikaner is not able through his own creative power to bring negotiated structures into being that are strong and supple enough to accommodate the clashing forces of South African ethnic differences, then it is

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<sup>12</sup> It seems such caution was warranted. A large majority of Broederbond members approved the BSV. By far the largest number of disagreements from branches argued that segregated neighborhoods were essential.

inevitable that structures will be forced upon him in which he will have no say. That will make self-defense impossible. It is essential that representatives of different power groups participate in the writing of a new constitution.... The acceptance of such a new system for the majority of our fellow-countrymen, and ultimately also for the majority of the Afrikaners, is one of the most important conditions for our survival.

The document, which was approved in principle by 96% of the one thousand and twelve branches (10,230 members) that responded to a head office survey, became official Broederbond policy.<sup>13</sup> Thenceforth, BSV, with all its internal contradictions, provided the principles on which the Staatkundige Geleentehede committee based its intellectual and educational work.

Central contradictions in the BSV centered on how “groups” should be defined for political purposes if “race” is not an acceptable category. The document itself used racial categories in referring to Afrikaners as members of the “White” group. “Survival” was still understood in racial rather than ethnic or cultural (history, language, religion, etc.) terms. Racial categories were challenged in the document on at least two fronts, however. Firstly, it noted that on grounds of culture and language, many “Coloured” persons are ethnically Afrikaner<sup>14</sup> and, secondly, accommodation of freedom of association and the notion of “open” groups, surely opened Pandora’s box. Suppose urban blacks joined together into one “open” group? Would that not ensure a “black” majority? The BSV document seems naively to have assumed that, as for Afrikaners, black cultural (tribal?) identities transcended racial categories – and this in a polity where privilege clearly rested on racial rather than ethnic identities.

Many Broederbond members’ submitted written responses to BSV when it was first circulated in 1986.<sup>15</sup> I shall pay close attention to two of them, because contrasting them will provide useful guidelines through at least some of the debates that ensued within the Broederbond during the next three or four years. Let me thus consider at some length the responses of Piet Cillie, retired editor of *Die Burger* in Cape Town and Danie Strauss, Dooyeweerd expert and professor at the University of the Orange Free State.

Piet Cillie’s trenchant comments (reflecting we are told the opinions of his Cape Town Broederbond branch) begin with a clear statement of contradictions inherent in the traditional Afrikaner points of view:

The most basic [traditional] position is that South Africa must belong in the first place to the Afrikaners – or, with less enthusiasm, to the whites – and, if that gets seriously meddled with, everything is over for the Afrikaner People (*volk*).... Equally traditional, nevertheless, is more or less sincere lip service to the freedom ideal, in terms of which ‘the Afrikaner must grant to other Peoples or groups in South Africa the same as they

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<sup>13</sup> The executive council was careful to add that members who disagreed were in no way at risk of losing their membership, “furtherance of debate and differences in the organization is both important and necessary.”

<sup>14</sup> This had long been the position of most Cape Afrikaners, including the Cape Broederbond. See Moodie, 2009.

<sup>15</sup> AB 10/32/4

demand for themselves.’ The Second War of Freedom [South African War] obtained universal meaning precisely from the fact that it arose from the principle that no People had the right to permanently subjugate and dominate another.... This tension between the demands of justice and self-defense has been brought sharply into focus in our time both through the West’s world-wide decolonization and the developing thought of the Afrikaner churches and intelligentsia.

The outcome of these events, Cillie argued, is that “realism compels Afrikaners to try the alternative path of mutual freedoms which they had been taught to reject as suicide.” He quoted from Lincoln’s Gettysburg address<sup>16</sup> at this point and noted that it took a century thereafter for the US to overcome racial separation.

His Broederbond branch, Cillie said, accepted the broad principles set forth in BSV with little enthusiasm but also with scant opposition:

We see it as an honest attempt by the best available thinkers to shift Afrikaner institutions from a largely out-of-date policy perspective to an order of freedom, equality and brotherhood and to see whether we can manage it without driving our civilization, including the Afrikaner People, into the ground. We know that we must try because we have no other choice. We also know that, if we don’t take the leadership, no alternative coherent power (other than a Soviet-inspired revolutionary front) is available to do so.

He went on to argue that the Broederbond movement must test any future constitutional change against the “basic conditions” of Afrikaner survival by a referendum seeking the approval of a white majority. Whether such principles would be accepted by “the majority of the citizens” remained, he said, an open question.<sup>17</sup>

Thus, Cillie affirmed a liberal version of nationalism in which state and nation are irrevocably intertwined. Hence the reluctance with which Afrikaners of his generation confronted “power-sharing”. In this regard, Cillie and his colleagues were on the same page as Treurnicht and the Conservative Party (and of PW Botha for that matter). Power-sharing (*magsverdeling*) between “nations” in the central state was the core issue. The question was whether Afrikaners as a “People” could survive if they did not dominate the central state.<sup>18</sup>

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<sup>16</sup> Not, interestingly enough, from Van Wyk Louw.

<sup>17</sup> In conclusion, Cille noted that his branch wondered whether the idea of a qualified franchise should be summarily dismissed; whether some form of partition should be out of order in circumstances where there is ethnic violence; and if an enlightened dictator with multi-racial participation might not be a good idea. The latter, he said, might evoke more enthusiasm than the painstakingly difficult back and forth evolution of democratic structures always subject to interethnic storms: “The public reaction (especially of Afrikaners) to the state of emergency demonstrated yet again that most people, perhaps even the majority of subalterns, choose order before freedom when they actually experience chaos on their own skins (*aan hulle eie vel*).

<sup>18</sup>As an aside, let me mention that the files of the *Staatkundige Geleenthedede* committee are full of discussions of devolution of power to regional authorities (and various obviously unworkable options for partition), which

There was a grim sadness about Cillie's contribution to this debate, however, because he also could see that in the long run Afrikaner survival was also, even more inevitably, at stake if they continued to hang on to the state and ignored justice. For the Afrikaner state was not based merely on Afrikaner culture. It was rooted in racial domination. Either way, Cillie seemed to fear, Afrikanerdom was doomed. Whether Afrikaner culture and traditions could survive without power, was a really serious question. Andre du Toit (1983) had seen this as well somewhat earlier. Could Afrikaner culture survive the loss of Afrikaner state power which had enabled it to flourish?

For Danie Strauss this should not have been a problem. While he also agreed in general with the principles of the BSV, he started at a different place: with the conservative reformist politics of Abraham Kuyper<sup>19</sup> as further specified by Dooyeweerd. His cardinal point was that the state as such must be conceptually and practically separated from various spheres of corporate social life (*lewensverbande*), such as cultural communities, families, schools, churches, universities and so on. Afrikaners, for Strauss then, ought not to control the state so as to survive as a cultural community.

Failure to make a clear distinction between the state (as a set of freedoms<sup>20</sup> and obligations that define citizenship and maintain order) and other social formations (*lewenskringe*) such as cultural communities, churches, educational institutions and welfare organizations, was the primary cause for "the crisis in which the Afrikaner People" now found themselves, said Strauss. Afrikaners, Strauss argued, had cherished false expectations (*foutiewe verwagtinge*) of political order in South Africa:

Before and after 1948, among many Afrikaners, the conviction took hold that Afrikaners owned the state. Membership in the People (*volkgenootskap*) was the most central bond (*verbintenis*) in human life, so that all other social forms including the state, were embedded in the soil of the Afrikaner People... The elaboration of this ethnic ideological line (*volksideologiese lyn*)<sup>21</sup> has resulted in our not learning correctly to distinguish between state and People (*volk*) on the one hand and government and political party on the other.

Although he cited various characteristics to describe the uniqueness of a People – a common history, geographical location, language and/or religion – Strauss insisted that "the only uniquely differentiating characteristic of ethnicity (*volkwees*) is given in the typical cultural style of a specific People." While formation of this cultural style "takes place in inescapable

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certainly had an impact on the final constitutional outcome and are perhaps the basis for another paper but which I shall ignore here.

<sup>19</sup> For the influence of Kuyper's ideas in South Africa, see Moodie, 1975:52-72.

<sup>20</sup> Strauss includes such freedoms as freedom of assembly, freedom of speech, freedom of voluntary association, freedom to criticize and protest and some form of universal franchise.

<sup>21</sup> He refers here directly to the inheritance of German "volkish" ideology. While I normally translate the Afrikaans word *volk* as "People" (and *volkse* as "ethnic") to avoid too close an association with German national-socialism, Strauss here makes a direct link. His critique of Afrikaner appropriation of the *volksstaat* idea parallels exactly Stoker's critique of Diederichs' nationalist *wereldbeskouing*. See Moodie, 1975;159-60.

conjunction with other social forms..., the People must not be lifted up as the fundamental basis of our entire life.... No person's life is inexhaustibly contained within the People to which he belongs." He or she was necessarily at the same time at least a citizen of a state, a member of a church community, a friend in a circle of friends and part of a family.

Moreover, although it does have a solidary unity, a People (as a cultural entity) possesses no permanent structure of authority. The state, however, does have authority in addition to its unity and thus is an obligatory association (*verband*) – as opposed to communities, even if they are real and historically constituted. Thus, in Strauss' terms it is not difficult to conceive of various Peoples, as communities with a particular cultural style, living within the bounds of the authority of a single state. Indeed, even the rise of a common political culture specific to the state raises, in his terms, no difficulty for the existence of different cultural communities within that state. "The core problem for the future of South African politics," Strauss insisted, "is how the constitutional interests (*regsbelange*) of, among others, ethnic groups can be meaningfully held together in one public order."

Modern tendencies towards individualism, however, did trouble Strauss. Thus he proposed that any bill of rights should entrench "identity guarantees" (*identiteitswaarborge*) which would acknowledge specific cultural freedoms which could be entrenched so that every minority group would have a right of veto where their specific group was concerned. No cultural community or other interest group, however, originated or should be in power by favor of the state. The state should acknowledge and guarantee a group's existence in a public constitutional order (*regsortde*) but it should not sustain it. Freedom of association must involve recognition of the collective freedoms of groups.<sup>22</sup> The state oversteps its boundaries, however, if it intervenes (presumably positively or negatively) in the non-state associations (*lewensverbintnesse*) in which its citizens are also involved.

The major differences between Cillie and Strauss were significant and continued to haunt debate in *Staatkundige* committee throughout its life. For Cillie, freedom was both cultural and political, achieved with the establishment of a republic in 1961 (although, for him, this was marred by the exclusion of Afrikaans-speaking Coloured people<sup>23</sup>). Having lived through the long Afrikaner cultural struggle for freedom, he was only too aware of the importance of political power for cultural survival and willing to abdicate it only reluctantly – although he was also troubled by the racial exclusions built into the system.

For Strauss, with a very different political philosophy, domination of the state was irrelevant (if not morally problematic) for the survival of cultural community – as long as the state followed through on its obligation to protect and guarantee communal life. After that, communities (whether cultural, religious, familial or other associational entities) needed to take responsibility for their own flourishing – sovereign in their own spheres.

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<sup>22</sup> He was thus concerned about the potential for personal dissociation from cultural communities.

<sup>23</sup> For Cillie's position on the "Coloured" question and his confrontation with Verwoerd, see Moodie, 2009.

Although I perhaps state the alternatives too starkly here (Strauss after all did argue for “identity guarantees”), in the end it was his general position that won out in the constitutional negotiations of the early 1990s.<sup>24</sup> Contemporary South Africa is a constitutional state (*regstaat*) with entrenched protections for individual rights. Group rights are a matter for freely associating individuals. The Afrikaner nation-state of Piet Cillie (and for that matter Van Wyk Louw) now lies in shreds (unless it be inversely reflected in the affirmative action policies of the ANC). The future of Afrikaner ethnic identity remains unclear but it certainly cannot now be rescued by political power.<sup>25</sup>

### **Broederbond praxis**

Judging from copies of minutes scattered through the boxes dealing with *staatkundige aangeleenthere* in the Broederbond archives, the five years after the circulation of the BSV document was a period of intense intellectual debate among members of the committee. They produced multiple documents on political policy to be sent to the Executive Council for approval and then circulated to the branches. Not only was the committee struggling to come up with intellectual solutions for political problems, it was also distributing such debates within the organization so as to educate Broederbond members about the difficult political issues facing Afrikaners. “Political literacy” became the watchword. Branches were kept very busy debating the merits of policy drafts about constitutional models, which deliberately posed questions rather than providing set answers. Ordinary Broederbond members, organic intellectual elites all, have told me that this was an enormously stimulating process for them during this time.

Scholars on the *Staatkundige* committee thus debated not only amongst themselves but were also obliged to engage with the ideas of Broederbond members emerging from frequent surveys and individual responses about particular *studiestukke* (position papers drafted by committee members and approved by the Broederbond executive council). “Friends in responsible positions” were also contacted and drawn into the debate. As I have noted, Roelf Meyer frequently attended meetings of the *Staatkundige* Committee. Gerrit Viljoen and Pieter de Lange, the Broederbond chair, were regular members of the committee. Members of the committee quite frequently met with “friends on responsible positions.”

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<sup>24</sup> By no means do I seek to elevate Danie Strauss’ political influence. He is well known in a small international circle of “reformed” thinkers because of his expert knowledge of Dooyeweerd. His response to the BSV, however, is hidden deep in the Broederbond archives. None of his Broederbond colleagues, to the best of my knowledge, responded directly to his tightly argued paper. It is on his intellectual stance (*die wysbegeerte van die regs-idee*), not his political influence, that I draw here. One ought not to forget that Tjaart van der Walt, Francois Venter, Chris Maritz and Johan Kruger – all major players at the end – had been trained in the same Kuyper/Dooyeweerd tradition of clear, logical thinking and of *soweriniteit in eie kring*. As, for that matter, had Stoffel van der Merwe, FW de Klerk and his brother, Wimpie! (Stoker, however, carried away by his nationalist enthusiasm on the political front, had tumbled into the nation-state camp – or had argued himself into it. See Moodie, 1975:226-9.)

<sup>25</sup> It is currently probably most strongly represented in Solidarity, the Afrikaner cultural union movement run by Flip Buys, himself trained in the Potchefstroom Kuyper/Dooyeweerd tradition.

Initially, there was a strong move also for ordinary members to meet with important Coloured and African leaders. Lists of potential contacts, including, for instance, Winnie Mandela, were drawn up. De Lange's secret meeting with Thabo Mbeki in New York in 1986, then, was fully in accord with developing Broederbond policy – as was Kobie Coetzee's contact with Winnie Mandela – although it was not formally shared with the committee. In the end, however, the Executive Council seems to have decided that the *Staatkundige* Committee's energies were best spent on debating with and informing its own members – whether in the branches or the government. The debate within the Broederbond, as always, was essentially an internal Afrikaner debate.<sup>26</sup> If the final settlement was an elite pact, though, the Broederbond was certainly extending the reach of the Afrikaner elite.

In February 1987, the *Staatkundige* Committee assembled an important *dinkskrum* (literally an “intellectual huddle”) to discuss matters of political policy. The intent was to ground the principles of the BSV document more firmly in the political nitty-gritty. About 100 “friends” were there, Afrikaner dignitaries all, including distinguished academics, members of parliament and provincial representatives, pressmen, lawyers, central and local government officials, security officials (including police, military and intelligence officers), businessmen, industrialists (many of those heading up the great parastatals as well as Afrikaner finance and industry), churchmen, teachers (including the director general of education), and a couple of farmers.<sup>27</sup>

Topics for discussion included constitutional mechanisms, means of identifying “groups” whose rights might be entrenched (sometimes later called “mechanisms for protection of minorities”), party-political structures, identifying the policy positions of moderate and radical negotiating partners (*gespreksgenote*), arrangements for negotiations and international opinion. The Broederbond was obviously trying to get down to brass tacks! The get-together started from a position of Afrikaner political power, but it added at once the need for a dispensation which would satisfy “the political aspirations of all individuals and groups – so far as is possible and just.” In February 1987, after all, there was a state of emergency in effect, but such state interventions could obviously only be temporary measures.

The “outcomes report”<sup>28</sup> on the *dinkskrum* concluded that:

The Afrikaner has a strong drive to self-assertion (*handhawing*). Along with this, however, goes a negative tendency to push others (within and outside the country) away. In the words of Dirk Opperman, the Afrikaner, in the process of self-assertion, has created a “cold, spiritual hell.” [But] the Afrikaner cannot survive the storms of the time alone. He must try to get the cooperation of as many favorably inclined others

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<sup>26</sup> For the inward-turning aspect of virtually all Afrikaner debate, see Moodie, 2009. One of Johan Heyns' students told me once that when they challenged him on understanding African attitudes he would say to them: “Let's ask him,” referring to the gardener working outside at his home. Professor Heyns, of course, eventually led the NG church to confess the sinfulness of apartheid.

<sup>27</sup> For copies of the papers delivered, see AB 10/32/9 (2); for a list of attendees, see AB 10/32/2 (1); for a summary of the results of the meeting, see AB 10/32/2 (2) (Bylae C by UR-Agenda).

<sup>28</sup> AB 10/32/2/(2), Resultate van dinkskrum, Bylae C, UR-agenda, June 12, 1987.

from different population-groups as possible..... After the fulfillment of the republican ideal in 1961, however, the Afrikaner entered a calm and then fell into unthinkable internal quarrels (*broedertwiste*) on cultural, church and political terrains.

The job of the Broederbond, the *dinkskrum* decided, was to serve the needs of Afrikaners within the Republic of South Africa through “refining the existent political system” in order to include those “who had not been active within the system.” But this group of eminent Afrikaner men<sup>29</sup> concluded that “citizenship of a country and political voice [must necessarily] go hand in hand.” Thus the meeting concluded “the disenfranchised (*buitestaatlik*) black man must be included in the highest political decision-making processes.”

The *dinkskrum* agreed that after negotiations a constitution should be set up and implemented by parliament. There was a growing conviction, however, that there needed to be a place for extra-parliamentary pre-negotiations which would complement parliament and would be free of the government, but would operate with the blessing and funds from the government. Its conclusions would be presented to parliament for confirmation.

The ANC was recognized as “a multi-ethnic revolutionary movement that operates across the boundaries of race, color and language,” and as the leader of an effective alliance of various “freedom movements.” Because it was controlled by the SA Communist Party there could be no conversation/negotiation with the ANC, although contact might be made with nationalistic elements within the organization.

The *dinkskrum* agreed that any Bill of Rights should apply to individual as well as group rights. South Africa, nonetheless was a land of minority groups, differentiated from one another by ethnic derivation and communal culture. The meeting agreed, however, that in South Africa, however, ethnicity had negative connotations not only because it was legally imposed and enforced but also because it was inconsistent. Whites, for example, were not a single cultural group but were treated as such.<sup>30</sup> The *dinkskrum* thus concluded that “enforced group classifications must preferably be replaced by spontaneous group formations.” It also noted in conclusion that “in a land of minorities the veto and the group veto would be useful constitutional (*staatkundige*) mechanisms.”

Except for the vexed question of how to define a group (open or closed), which, after endless discussion and negotiation eventually led to the abandonment of the notion as a legally enforceable concept (and hence of the group veto idea), the conclusions of this 1987 *dinkskrum* come extraordinarily close to the current South African constitution.<sup>31</sup> The most immediate outcome for the Broederbond at the time was that the *Staatkundige* committee considered assigning sub-groups to draft a Bill of Rights and to wrestle with the thorny conception of

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<sup>29</sup> The Broederbond was an exclusively male organization.

<sup>30</sup> Some argued that whites shared a common commitment to “western ideas” but this became immediately problematic because such ideas could not be racially conscribed.

<sup>31</sup> Aversion to the South African Communist Party and the ANC was considerably allayed by the fall of the Berlin wall which was an event fundamental to Afrikaner politics.

power-sharing (*magsdeling*).<sup>32</sup> The latter, of course, brought an immediate focus on “groups,” “group-formation” and the definition of groups. As early as the August 3, 1987 meeting of the *Staatkundige* committee, Ignatius Rautenbach a constitutional lawyer and a stalwart member of the committee was warning, in regard to the question of entrenching group rights, “that the question of defining a ‘group’ could present major problems.”<sup>33</sup>

In a long article, submitted to the committee in April, 1986, and widely distributed to branches, entitled “Groepe, groepforming en staatkundige struktuur,”<sup>34</sup> Ig Rautenbach had already noted a discomfiting distinction. He wrote that “persons who regard themselves as a group constitute a voluntary group and those who are only seen by others as a group, are a forced group” (p.3).<sup>35</sup> Any kind of formal system of group identification in South Africa, he said, would be perceived as apartheid, given the unequal treatment meted out under that system in the past (pp.7-8). He added in passing the crucial point that a Bill of Rights could be useful only as a result of the establishment of equal treatment, not as a means to it (pp.6-7).

In November, 1987, the question of “groups” came to a head with a proposal from the President’s Council that parliament approve the legalization of already existing “grey” areas where individuals of different racial origins resided. In the ensuing uproar, PW Botha announced that he accepted this marginal challenge to residential segregation. I should note that, judging from members’ reactions, this was an issue on which Broederbond branches were most seriously divided. Rather a black president than black neighbors! FW de Klerk’s eventual revocation of the Group Areas Act in 1991, however, eventually passed with very little comment.

At a fairly thinly attended meeting of the *Staatkundige* committee on May 2, 1988,<sup>36</sup> a vigorous debate ensued among committee members about groups and group rights. The Broederbond secretary tended to take relatively copious notes of various contributions but not to mention names. I think I can identify some of them and shall tentatively do so. Near the end of the debate, someone made a point that is repeated in many Broederbond documents – that there were ten ethnic groups in South Africa (the African tribes) and three multi-ethnic groups (whites, coloureds and Asians). Sometimes it was suggested that urban blacks might make up a

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<sup>32</sup> AB 10/32/1 (4) “Voorstelle nav die stuk “Resultate van Dinkskrum”. This, I suspect was why Francois Venter, Chris Maritz and Judge Booysens were invited onto the committee at this point. The latter (who took a position similar to Piet Cillie on the importance of the state for the nation) never agreed with the former two (who represented a Kuyper/Dooyeerd position).

<sup>33</sup> AB 10/32/1 (4).

<sup>34</sup> AB 10/32/1

<sup>35</sup> This was a distinction that had been completely lost on earlier “separate development” policy-makers, who simply took for granted the ethnic (“tribal”) self-conceptions of Africans, completely unaware of the extent to which they were totalizing such conceptions and forcing them on Africans who held to a wide range of more or less inclusive “tribal” commitments in different contexts. Moreover, the obviously multi-ethnic nature of white domination necessarily forced Africans, by virtue of their daily experiences in “white” South Africa, into a primarily racial identity (often shared by “Coloureds” and “Indians”) as “black.” While ethnic identities amongst urban blacks were not irrelevant, they were certainly not primary. The fact that they were “forced” (in Rauchenbach’s language) certainly lessened their immediate effect on black politics.

<sup>36</sup> AB 10/32/9 (1). Judge Booysen, for instance, was not present.

fourth “multi-ethnic” group. Of course, the fundamental divide between “ethnicity” and “multi-ethnicity” was basically racial.<sup>37</sup> At the outset of the May 2 discussion someone made the bald assertion that “a political group is a group that has obtained specific rights.” This person (I suspect it was LS Swanepoel) added that “current groups in South Africa found one another in the classification system of a constitutional division.<sup>38</sup>” After further inconsequential comments, someone, I suspect it was Chris Maritz, intervened:

Fixed grouping and the acceptance of it will depend on what is tied to such a classification. Material privileges were linked to the white group. The white group in any event is not really ethnic but racial. Existing rights linked to such groups will have to be abolished – however difficult that will be. Blacks accept that if they get political rights their ethnic classification will be affected.

A colleague (I suspect it was Francois Venter) responded:

According to the report of the HSRC, ethnicity is not dead, but in the Republic of South Africa, certainly, that is because it is in a way written into the constitution. There thus exists hostility, not against groups as such, but over the privileges of groups. Ethnic consciousness (*ethnos*) is used as ethnic manipulation. A ripening process must happen because the white group acts in a “domineering” manner over other subordinate groups. Ethnic or cultural differences cannot be summarily destroyed [simply] because they are opposed, however. Groups may eventually identify with one another but it will take a long time.

Someone promptly retorted (perhaps Maritz again) that “power-sharing is not enforced anywhere in the world – groups get classified together where authority is exercised together.” The discussion ended with someone saying that “historical background must be the starting-point for further group identifications. There must be a willingness to accept and be accepted.”

Immediately after this enlightening discussion of group rights, one of the participants, LS Swanepoel drew up a memorandum (dated May 3, 1988) to guide the committee’s “conversations with Members of Parliament and the President’s Council.” The memo stated that the committee assumed that constitutional steps being taken by the government were designed to “broaden democracy, protect group rights and the maintenance of good government.” It added, however, that “there could only be talk of maintaining group rights if

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<sup>37</sup> Why Africans were expected to accept ethnic identifications when they experienced legal and joint “forced identity” on racial lines remains been a mystery to me. It took Afrikaners almost forty years to understand the difference between “voluntary” and “forced” identity and the political implications thereof. This seems to be one of the clearest indications of the continuing effect of the Afrikaner’s own struggle for ethnic identity (Moodie, 1975) and what Aletta Norval calls “the Afrikaner myth” (Norval, 1996). This debate in the *Staatkundige* committee is the first indication I have seen of explicit recognition of this distinction. (But see, also, the previously mentioned article by Rautenbach and a piece by Chris Maritz, *Op soek na ’n paslike staatsvorm vir Suid-Afrika*, presented to the Broederbond committee on April 19, 1988 (AB 10/32/4) to wide-spread acclaim from his colleagues and circulated to the branches in 1988. I shall deal with this piece at a later point in the argument of this paper.)

<sup>38</sup> This, I presume, is a reference to the Racial Classification Act.

'groups' are clearly identified and circumscribed." "Are we speaking of the Afrikaner," the memo asked, "or of Afrikaans-speakers, the whites, the western-oriented? What is 'a group?'" Swanepoel added that a beginning could be made by examining "already existing groups, namely whites, Coloureds, Asians and the ten black territorial groupings." Moreover, given the principle of freedom of association and dissociation, "each individual should be permitted to join any group of his choice – if acceptable to that group – and the formation of an open group would also have to be a possibility." Such a process, however, "takes group formation out of the hands of the legislator and places it in the hands of the group (and individual) itself." If such an account of group formation is accepted, he added, "marketing the idea is going to make or break the case."

The memorandum added that "after lengthy and wide-ranging discussion, the *Staatkundige* Committee has come to the conclusion that a Bill of Fundamental Rights will be to the advantage of the Republic of South Africa (and whites) both in internally and externally." It also expressed concern about some of PW Botha's recent announcements.<sup>39</sup> The memo concluded that it had not yet submitted these ideas to the Executive Council but wished first to engage with "responsible friends" on the matter.

On June 3, 1988, three members of the *Staatkundige* Committee met with 9 Parliamentarians. An extensive report-back (I suspect by the Broederbond secretary), captures the back and forth of the discussion.<sup>40</sup> The parliamentarians lagged far behind their cultural organization, insisting that "total democracy is really not possible" – the memo should better have referred to "limited democracy." But they also agreed that most people (meaning, I think, white voters) "know that the situation cannot remain as it is. If the solution brings results, people will accept it" the politicians<sup>41</sup> said:

Security will lie in accomplishing a plan that guarantees group rights.... Effectively control of general matters is still in white hands. Security for groups will reside in the extent to which they have voice (*seggenskap*) in their own futures.... Clearly defined groups are the goal, [but on what basis]? World opinion is not against groups as such but certainly against groups based on color.... When ethnicity has faded away (*verdwyn*) until it is gone, it will become a factor again.

The problem, one of the parliamentarians said, is that "defining groups looks like the continuation of discrimination. There must be equal treatment (*betragting*) and the image of privilege associated with groups must disappear. This must be addressed in the marketing of the [new] system.... Acceptability limits the make-up (*samestelling*) of groups."

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<sup>39</sup> In the discussion with parliamentarians (AB 10/32/4), committee members were told that President Botha's behavior should be discussed "onder oe" (in private). Clearly, PW Botha's increasingly erratic utterances were causing concern, but at that stage this could not be publically discussed. Within little more than a year, he was gone.

<sup>40</sup> AB 10/32/4. A much more brief report-back on the same meeting (I suspect by LS Swanepoel) is to be found in AB 10/32/9 (1).

<sup>41</sup> This reads to me like the voice of Stoffel van der Merwe.

At that point, the discussion turned to the word “magsdeling” (power-sharing), which, it agreed, was an unfortunate term: “*Magsversterking*” (literally strengthening – perhaps increase -- of power) would be a better word to build on. The idea of the pursuit of a common goal among all groups is what needs to be brought home. That will bring about mutual responsibility and healthy power-sharing.” “The [real] issue that needs to be considered,” someone added, “is whether parliament is sovereign or not (*afdwingbaar*).... Any Bill of Rights must be approved by parliament. A second, shorter report-back<sup>42</sup> added that “the 1983 Constitution was a good example of *magsversterking* since it gave two other groups mutual responsibility in the governing of the country without obliging whites to give up any real power.” This, of course, was precisely the problem.

The questions of “groups” and “group rights” in all their multiple variations, thus continued to bedevil Broederbond political discussion, whether within parliament and the central administration or outside. Everyone agreed that the Broederbond’s educational program was essential, however.

### **The Broederbond’s *Staatkundige* (Public Policy) Education Program**

The Broederbond Executive Council had thus formally mounted an educational program to improve the *Staatkundige* literacy of its members.<sup>43</sup> On May 20, 1988,<sup>44</sup> the *Staatkundige* Committee noted that attention needed to be focused on “pre-negotiation conversation” in the branches. As early as 1988, then, the Broederbond was preparing for a negotiated settlement in South Africa. Copies of the BSV needed to be made available to each branch, the committee said. Each branch would also be asked to build up a file in which the various *studiestukke* (literally “study pieces”) could be held, possibly along the branch’s own commentary on them.

The *Staatkundige* announcement insisted that the Broederbond needed to hold onto its independent position into the future and to act to stimulate discussion: “The program must be developed to equip our members to engage fundamentally (*prinsipieel*) in the ongoing debate over the process of constitutional (*staatkundige*) development. The goal is not only to engage with them but also to consult them so attention must also be given to set questions for the branch to answer.”

On June 2, 1988,<sup>45</sup> the *Staatkundige* Committee pronounced that the organization had an “unavoidable responsibility” to contribute to policy matters (*staatkundigesake*) by encouraging debate amongst members: “We must contribute creatively to the clearing of a policy path ahead.” At the same time, as appropriate for a “cultural” organization, the Broederbond’s actions should not be “hitched to any specific [constitutional] model.” Instead, “the educational task is to bring all the members together so that it can be carried out by them into the broader [Afrikaner] popular struggle (*volkslae*).”

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<sup>42</sup> AB 10/32/9 (1).

<sup>43</sup> I think Paulo Freire would have called in a conscientization program.

<sup>44</sup> AB 10/32/4.

<sup>45</sup> AB 10/32/4. It may have been an announcement by the Executive Council itself. At any rate, it certainly became Broederbond policy about the *staatkundige* educational project.

## Values and Norms

For purposes of this paper it is not necessary for me to summarize the many *studiestukke* sent out by the *Staatkundige* Committee over the course of the “political literacy” program. It is, however, worth considering a controversy within Broederbond ruling circles occasioned by a paper commissioned from Francois Venter on *Waardes en Norme van die Afrikanerstaatkunde* (Values and Norms of Afrikaner Constitutional Policy), both because of the interest of the paper itself, because revisions of the paper represent important divisions within the organization and because of Venter’s central place in the motivation for this paper.

For Venter the state should be representative of its all its citizens (the inhabitants of the country) and its government should exercise specific functions on behalf of citizens according to the law. In South Africa, however, given the realities of the country and the interests (*insette*) of dominant cultural and political thought over the past three centuries, race predominated among those exercising power. Only in the last forty years had Afrikaners managed to introduce ethnicity (alongside established racial divisions) by dividing black citizens into ethnic groups.

Race and ethnicity had since developed into both inescapable realities and formidable political barriers to speedy constitutional evolution. Since race was both nationally and internationally unacceptable, Venter urged that in the constitutional context (*verband*) one should refer only to voluntarily formed, strong (mostly ethnic) divisions. In any community, he argued, group formation was a natural and normally irresistible process. Where such a process was legally institutionalized, however, as in South Africa, the natural process of group formation took on the characteristics of external and unacceptable force. Venter was quite clear that this was unjust. His implication was that the state should abstain from enforcing racial or ethnic divisions. In this regard, he was fully with Danie Strauss in the Dooyeweerd camp!

Amongst whites, of course, there was no ethnic legal unity. Race was the means by which whites were constitutionally classified. Venter argued that Afrikaners should drop claims to racial identity and return to their ethnic base. He accused the Afrikaner right wing of losing faith in Afrikaner culture’s dynamic power to survive without the violent exercise of political power on a racial basis. Insisting on any form of group rights as constitutional means, he said, would not only feed political suspicions but also raise the thorny question of defining groups. Venter, however, affirmed individual rights as juridical guarantees of justice for individuals against the state as well as means for the prevention of group domination, whether racial or ethnic.

Venter called for a new constitution which would shift the concentration of power from representatives of the white group to a more balanced division between different segments of the population. He pointedly noted that the current constitutional system “allows room for the grant of power to organs of the state without effective objective controls of the manner in which such power is exercised.”

He thus suggested four foundational principles for constitutional policy. First, that the state is made up of all its citizens and must be ruled in the communal interest of all its citizens. Second, that the cultural interests of voluntary groups should receive state protection and each individual has the right to expect that his cultural interests (including religion, language and education) will be respected as long as the rights of other persons in the community as a whole will be maintained. Third, that the state should undertake in a reasonable and impartial way to enable each individual to develop his talents, to protect his personal interests and to satisfy his rightful human needs. Fourth, that actions in conflict with the above principles by the government and any government representative, or any other person or group of persons should be illegal. Coming from the same tradition as Danie Strauss, he clearly accepted Strauss' critique of the Afrikaner *volkstaat* idea.

Thus, in concluding his *studiestuk*, Venter urged that it must be accepted that the status quo, in which state power was in the hands of Afrikaners, could not survive. It was obvious, he said, that the process of division of power must reach a critical balancing point where the effective control of government authority would be transferred from Afrikaner to other hands. It was thus essential that the political culture of the "sharp" instruments of state power, the police and the military, be marked by unimpeachable professionalism under legal control. This was a manifest slam at the emergency regulations and at police and military behavior at the time.

Venter's essay, clearly a critique of *volkstaat* ideas, came under stiff attack from Judge Willem Booysen,<sup>46</sup> essentially on similar grounds to those of Piet Cillie in his reaction to the BSV document -- the right of Peoples (*volke*) to self-determination. Power is not only exercised by the state, Boshoff said but also by the nation as an aspect of the state. "A People's struggle for self-determination," he insisted, "is not limited to cultural or language concerns. It wants to rule itself as far as is possible and where it cannot rule itself it wants maximum say in the government." The implications of the newly defined (in the BSV) right to dissociate from a People seems to have been lost on him. Self-determination through state control was manifestly the destiny of a genuine People for him. He proposed a number of constitutional means to achieve such self-determination, including "decentralization of decision-making and devolution of power, district- or state-governments, segmental autonomy, group representation on a proportional, loaded or equal basis, veto or consensus decision-making."

Booyesen insisted on a fifth constitutional foundational principle, namely that "the greatest possible measure of self-determination be given to Peoples or groups that struggle for it through the devolution of power to regional and municipal governments or administrations." "One might debate the mechanisms for self-determination to provide the greatest possible self-determination" and "whether it should be on racial or ethnic grounds" but that it should be a fundamental constitutional principle seemed to him not to be open to debate.

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<sup>46</sup> AB 1/32/2 (3). One should perhaps note that Booysen had been quite closely associated with the Natal Indaba which had dealt with the most ethnicized of the African groups in South Africa (see, for example, Marks, 1992). Deals struck with Chief Buthelezicould could certainly not be struck even with other African rural "tribal" groups -- let alone urban Africans.

The *Staatkundige* Committee assigned Booyesen and Andreas van Wyk, to work with Venter on revising the document. The final version was much toned down, although it was still quite controversial.<sup>47</sup> Venter's criticism of lack of legal control on the security forces unsurprisingly disappeared but there were also more substantive changes. Venter had originally written that "Group rights is a concept that has no clear meaning." That sentence disappeared and a firm sentence, "that group rights must also have...protection" emerged. Finally, and most tellingly, a fifth foundational principle added Booyesen's language about ethnic self-determination. Judge Booyesen had got his way, over-riding Venter's careful distinction between the state and "the cultural interests of voluntary groups". Booyesen, lacking Piet Cillie's grim fortitude and sense of reality, was trying to push the Broederbond back into the nationalism of a volkstaat. Venter was obliged to abandon, at least in this *studiestuk*, the full development of his *regstaat* ideas.

### New Directions/Old Dilemmas

In June 1989, the Broederbond issued a new "interpretation" of BSV principles. The document, called *Konsep-Riglyne vir die Staatkundige Gesprek* (Conceptual Directions for the Constitutional Conversation),<sup>48</sup> deliberately fudged the "group" question by introducing the notion of *deeleenhede*.<sup>49</sup> As a goal it proposed "the establishment of an economically viable constitutional dispensation" in which "freedom and equal rights and opportunities will be ensured for every South African citizen, the right to self-determination ensured for the different South African Peoples (*volke*<sup>50</sup>), population groups and communities and the interdependence of the different South African communities receives acknowledgement."

The *Rigting* document proposed an entrenched constitution with a bill of individual human rights and then added that "*deeleenhede*, either of a group or a geographical nature, must be included in a constitutional dispensation.... It is important for the Afrikaner that he, alone or together with others with whom he wishes to associate, be entitled to protection as a group." The document adds the BSV right of free association, however, and insists that "groups

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<sup>47</sup> AB 10/32/4 contains several different versions of the document, including one copy with myriad hand-written corrections. There is also a fat file of responses from the branches, many not negative, but this was to the revised version!

<sup>48</sup> AB 10/32/2 (3).

<sup>49</sup> Louis Harms informs me that *deeleenheid* is a concept used in property law to describe what is called in South Africa a "participation unit." This is an arrangement where there is common ownership, say of an apartment building or block of flats, but where individuals also own their own unit. Thus, by analogy, it would seem that groups in South Africa would occupy their own (literal or figurative) spaces and yet also be citizens of the country as a whole. Whether the Broederbond branches would be aware of this analogy seems unlikely to me. It is not explained in the document.

<sup>50</sup> The original draft did not include "Peoples" in this list. Judge Booyesen insisted that *volk* be added to the list. In this regard, he was firmly in the camp of Piet Cillie, but without the latter's grim insightful fortitude. "A People," he wrote in response to the first draft of the document, "is free or has freedom as long as it disposes of its own destiny (*lotgevalle*), that is to say it has self-determination and thus is not ruled by another. The golden thread which runs through the history of the AB is that it consistently (*deurgaans*) struggled (*beywer*) for the freedom of the Afrikanervolk. This was the goal that was achieved after a long struggle in 1961 when a Republic came into being, free of the last remains of British domination." A "community" he wrote, "is clearly not a People. Generally it refers to a local community" (AB 10/32/9, Kommentaar, 15 Mei, 1989)

in South Africa are interdependent and cannot stand in isolation from one another. Cross-cutting loyalties and symbols must thus be developed and used to bring into being a national [meaning “state-wide”] sense of unity.” Nonetheless, “*deeleenhede*” should be guaranteed autonomy. “This autonomy must include all matters necessary for the survival of the uniqueness (*eiesoortigheid*) of the *deeleenheid*,” asserts the document, “including the capacity to decide by autonomous means how their executive institutions will be constituted and to what degree their powers may be managed by other executive institutions.”

The document chose not to prescribe the content of a *deeleenheid*, giving its readers the option of choosing either a racial, a cultural, a geographical or a mixed constitution for the *deeleenheid*. A Broederbond *dinkskrum* called on April 29, 1989, to address the original version of this document, settled for the geographical option, but urged that “attention be given to the clear description and definition of groups.” The definition of groups was, of course, the original dilemma, however. The Broederbond had come full circle back to its starting-place. Indeed, in fact, no region of South Africa had a majority of whites (even less Afrikaans-speaking whites) in 1989, so the suggestion of a “geographical option” made little sense without what would certainly be perceived to be discriminatory principles on behalf of racial minorities.

It is notable that many Broederbond branches thought that the *Rigting* document would not much avail in persuading other “communities” in South Africa to buy into its conceptualization. Many urged that the organization’s attention be shifted to the negotiation process itself.<sup>51</sup> Negotiations were thus on the Broederbond agenda for South Africa even as PW Botha fell from power. One further earlier *studiestuk*, this time by Chris Maritz, focused Broederbond attention on the process of negotiation itself. Maritz’s essay, which was entitled, “*Op soek na ‘n paslike staatsvorm vir Suid Afrika*” (In search of a suitable type of state for South Africa),<sup>52</sup> is one of many *studiestukke* that examined different forms of the state. The specifics of his proposed forms were quite conventional. What was most impressive was Maritz’s acute understanding of the importance of process.

In regard to a Bill of Rights, for instance, he wrote that “it must be stated that ‘guaranteed’ individual rights...offer little comfort in a country which is already rent by conflict – because who will guarantee the guarantee? And, if individual rights cannot be guaranteed by a constitution, how can the right to group formation (even if merely a commitment to individual rights) then be guaranteed by a constitution.” What really matters, he said, “is the sentiments (*gesindhede*) held by groups (however defined) to one another in the country as a whole. Other givens, methods and techniques might well contribute..., but in the last analysis it is the people (*mense*) of the state themselves who will guarantee the guarantee as a result of attitudinal change and growth in awareness of common concerns.”

“Most important,” he insisted, “is the **process** that leads to the discovery of an appropriate model [rather than the particular model itself]. It is in the process of shared searching that realities requiring adaptation come most sharply to the fore.” It was futile for

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<sup>51</sup> AB 10/32/9, Reaksies

<sup>52</sup> AB 10/32/4. Drafted April 19, 1988, circulated to branches in July, 1988. This was a relatively quick turnaround time for such pieces.

whites to present a finished state model to the other population groups, he added. The best we can do, Maritz said in his final version of the paper, "is to lay down minimum preconditions (as, for instance, in the BSV document):

There is no other way than for the future dispensation in South Africa to be worked out through negotiation, dialogue and deliberation between all groups, parties and organizations. That is the most essential precondition for reaching agreement on rules of the game that the government can offer (more important than the type of state, its efficacy and values). For that matter, the process [is most important] precisely because a good process, as feelings are understood and motives become more clear, will surely lead to allayed fears and scaled down demands.... The time will not wait. Every support must immediately be given to getting under way (*opdreefkry*) a negotiation process aimed at a new constitutional order for South Africa.

I have no idea whether FW de Klerk ever read Maritz' *studiestuk*, but certainly some of his colleagues must have done so. And those were certainly the principles on which de Klerk acted on February 2, 1990. In doing so, he suddenly left the Broederbond floundering in a cloud of dust.

### **After De Klerk's "Quantum Leap"**

On June 22, 1990, at a regular meeting of the *Staatkundige* Committee, Andreas van Wyk, the chair, tried to take measure of the value of the committee. "Matters on the constitutional terrain now follow one another very fast," he said: "Do we still have a role to play? At one time we were perhaps a little ahead of the government and played an important part in stimulating ideas. Now we must accept that the government has the initiative and has run past the activities of this committee."

In the discussion that followed, it was urged that the committee still had an educational role to play. "We must watch against an effort to produce models that will only work in terms of past paradigms," one said: "Many members still have not made the intellectual leap necessary to fruitfully discuss the new constitutional future." People needed to understand that February 2 brought about changes of principle, said one: "The question is whether our people understand that we now stand in the position of a minority. How can the Afrikaner attain and keep the autonomy in which we believe?"

The meeting then turned yet again to the vexed issue of "groups." Again, the importance of non-racial freedom of association was affirmed. Van Wyk pointed out that the primary goal of group recognition was to insure a political voice (*medeseggenskap*) and full cultural autonomy for each group. "Perhaps," suggested someone, "we need to consider whether such voice should go so far as the exercise of veto-rights." A Bill of Group Rights was again mooted. On November 6, 1990, Francois Venter and Judge Booysen summarized the discussion. By this time a state Law Commission had recommended that individual rights be entrenched but that any form of group rights would lead to inevitable rigidity. Venter and Booysen warned against excessive individualism. Mother-tongue education should be provided

with state support and equal state support should be provided for all cultural institutions. Affirmative action might be supported, but not at the cost of discrimination against others.

It is hardly surprising, in the context of such internal (and increasingly external) debates, that Johan Kruger, a colleague (and “friend”) of Francois Venter at Potchefstroom, was able to conclude an essay (published in the early 1990s in *Woord en Daad*, but that also shows up in the Broederbond archives,<sup>53</sup>) with the following words:

“Cultural groups” [as a notion] are not suitable foundation stones on which to build a new constitutional model; they are a poorly covered-up effort to retain the *status quo* under a new banner; they may well deserve solid protection, but **outside** the political terrain and rightly by means of protection of individual rights.... Especially in the delicate negotiations phase that lies ahead, it is important that white voters should be led to understand the consequences of such political concepts. The time for holding out magic formulas has passed for good. In the past it has been too difficult to relinquish magical formulas – which have ultimately proved to be graves rather than life-boats.

Kruger, along with Venter and others, became one of the legal team advising Roelf Meyer during the negotiations.

Meanwhile, on September 24, 1990, the *Staatkundige* Committee debated a Bill of Rights. No-one mentioned positive group rights. Instead, it was urged that excessive individualism should be avoided “and [negative] qualifications such as protection of religion, education, the family and cultural groupings” should be built in. While the Bill should protect private property rights and private enterprise with support from the state, it was accepted that some form of affirmative action should be supported. The *Staatkundige* Committee was inching forward. As CODESA got under way, Gerrit Viljoen, Roelf Meyer and Tertius Delport came to *Staatkundige* Committee meetings to report progress, or lack thereof.

## Conclusion

When Francois Venter came forward in 1992 with his proposal for a constitutional state<sup>54</sup> that Roelf Meyer told me turned things around with Cyril Ramaphosa at the most difficult point in the negotiations, he was then only a step or two ahead of the Broederbond consensus. Nor was he personally abandoning a *volkstaat* for a *regstaat*. He had always favored some sort of *regstaat*, along the lines of Kuyper and Dooyeweerd. For him, the state could not justly (or for that matter practically) represent only Afrikanerdom. Moreover, FW de Klerk had himself been trained in the same legal tradition. The Venter proposal had been accepted by the National Party cabinet and de Klerk. The *regstaat* was not a hard sell for Venter. He had always believed in some version of it.<sup>55</sup> Certainly the loss of state power was harder for any seasoned politician to stomach, but to Venter and Kruger and Maritz (and

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<sup>53</sup> AB 10/32/3 (2)

<sup>54</sup> Summarized in Welsh (2009:457)

<sup>55</sup> See his 1986 article,

perhaps to de Klerk himself) it was not the disaster it must have seemed to be to Judge Booyesen, who eventually resigned from the Broederbond, his reasons not known to me.

For Venter, Afrikaner culture would have to survive under its own steam with its own norms and values. But it was protected by a fairly strong Bill of Rights and by a culture of tolerance created by the negotiation process itself – as Chris Maritz had hoped it might be. Such tolerance was at least in part a creation of Venter's *regstaat* proposal. The Broederbond itself was inching toward some such a model. Venter retained his commitment to Afrikaner culture outside the sphere of the state. He was part of the process that brought the Broederbond out of its secretive ways and into public as the Afrikanerbond. Most Afrikaners emerged from the transition without loss of wealth or their educational resources. Whether Afrikaner culture could survive without state support was now up to Afrikaners themselves. If it failed, that was because Afrikaners had lost their commitment to it. Their future was in their own hands, not in the hands of the state. If Afrikaner culture survived it would do so with justice. Perhaps some Afrikaners would agree with Van Wyk Louw that that was not such a bad deal.

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