

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN SOCIOLOGICAL ASSOCIATION;
AMERICAN ASSOCIATION OF UNIVERSITY
PROFESSORS; AMERICAN-ARAB ANTI-
DISCRIMINATION COMMITTEE; BOSTON
COALITION FOR PALESTINIAN RIGHTS, and
ADAM HABIB,

Plaintiffs,

v.

MICHAEL CHERTOFF, in his official capacity as
Secretary of the Department of Homeland Security;
CONDOLEEZZA RICE, in her official capacity as
Secretary of State,

Defendants.

**DECLARATION OF
ADAM HABIB**

Case No. 07-11796 (GAO)

DECLARATION OF ADAM HABIB

I, Adam Habib, do declare:

1. I was born in Pietermaritzburg, South Africa in 1965. I am a citizen of South Africa and currently reside in Johannesburg.
2. I obtained a Doctorate in Political Science from the Graduate Center of the City University of New York in 1998. I earned a Masters Degree in Philosophy and Political Science from the University of Natal in 1992, and a Bachelor of Arts Honours Degree in Political Science from the University of Witwatersand in 1988, both South African institutions.

Employment, Scholarship, Research, and Political Activism

3. Since September 2007, I have been the Deputy Vice-Chancellor of Research, Innovation and Advancement at the University of Johannesburg. As one of the Vice-Presidents of the institution, I am the most senior executive responsible for the establishment of

new research centres and institutes, the recruitment of senior research professors, the mobilization of resources for their activities, the facilitation of international partnerships, and the development of processes and institutional conditions that enable the commercialization of academic research. Before assuming this post, I was Executive Director of the Democracy and Governance Program at the Human Sciences Research Council (“HSRC”). The HSRC is an organization that was created by statute in 1968 to foster development in South Africa and Africa through social-scientific projects for use by the public sector, government, non-governmental organizations, and international development organizations, in partnership with researchers globally. As the senior executive responsible for the Democracy and Governance Research Program, my mandate was to undertake, manage, and disseminate high level strategic applied research for national, continental, and global public authorities. Prior to working at the HSRC, I held a research post at the University of KwaZulu-Natal and had a teaching post at the University of Durban-Westville. In 2001, I also founded the Center for Civil Society, a think tank devoted to strengthening the non-profit and volunteer sector. At various times over the last 10 years, I held editorial posts at *Transformation*, a well-known South African social science journal, and *Politikon*, a political science journal.

4. I study and write about various aspects of political and social policy. The focus of my research and scholarship is democracy, governance, race and identity, public policy, and social movements. The geographic focus of my research is South Africa and, more recently, Africa generally. I have paid special attention to the areas of democratic transitions, political economy, institutional transformation, higher education reform and state-civil society relations. I have published more than 60 edited books, book chapters, and national and international journal articles on these topics. The books I have co-edited include *Racial Redress and*

Citizenship in South Africa, (HSRC Press, 2008), *Giving and Solidarity: Resource Flows for Poverty Alleviation and Development in South Africa* (HSRC Press, 2007), *Voices of Protest: Social Movements in Post-Apartheid South Africa* (University of KwaZulu-Natal Press, 2006), *State of the Nation: South Africa 2003-2004* (HSRC Press, 2003). Some of my most recent articles include “Research Productivity and the State in South Africa” in *Journal for Higher Education*, 2007 vol. 5, no. 1, 2006 (with Seán Morrow), “State-Civil Society Relations in Post-Apartheid South Africa,” in *Social Research*, 2005, vol. 72, no. 3, “Globalization, Marginalisation, and Contemporary Social Movements,” in *African Affairs*, 2005, vol 104, no. 417 (with Richard Ballard, Imraan Valodia, and Elke Zuer), “Patterns of Giving in South Africa,” in *Voluntas*, 2005, vol. 16, no. 3 (with David Everatt, Brij Maharaj, and Annsilla Nyar). I have also recently completed a chapter commissioned by the Centre for Conflict Resolution at the University of Cape Town, entitled *Western Hegemony, Asian Ascendancy and the New African Scramble*, which analyzes the implications for Africa of the recent scramble for the continent’s resources by the U.S., China, and India.

5. Much of my research and scholarship focuses on issues pertaining to democracy and social justice. I try to understand the conditions that prompt political and economic elites to take the interests of poor people seriously. In this sense, I investigate the political conditions under which human-oriented development occurs.

6. I am an advocate for advancing basic human rights. All of my writing, both scholarly and popular, suggests that by asserting their rights within the existing legal and social framework, citizens have the leverage to hold their governments and political elites accountable. A lot of my work is inspired by my experiences living in a segregated society under the apartheid regime. It is through the struggles of black people under apartheid that I

learned how citizens can develop leverage to change their society for the better. I vigorously opposed apartheid. I participated in demonstrations against the apartheid regime; in fact, I was jailed for two weeks in June 1986 as an anti-apartheid demonstrator under state of emergency legislation imposed by the apartheid regime. I have written many pieces in which I place South Africa's transition from the apartheid regime to a stable democracy in comparative perspective, and use the South African experience to evaluate other problems and social movements throughout the globe.

7. I have also spent a great deal of time researching and writing on specific policy problems and trying to provide practical solutions. About two years ago, I led a study for the South African Presidency about the effectiveness and consequences of redress policy and made recommendations for improvement. Similarly, in 2007, I managed on behalf of the HSRC a research scenario exercise commissioned by the South African Presidency concerning what the country would look like in 2019. Recently, I completed a report for the South African Council on Higher Education on the state of academic freedom and how to strengthen it.

8. Because of my expertise in democracy-building and public policy, I have worked closely with government officials and government institutions throughout the world. I have often been asked to advise South African government officials. For example, I have undertaken research for the Office of the Presidency and the Departments of Foreign Affairs, Public Service and Administration, and Treasury on topics ranging from affirmative action to South African foreign policy. I have also been called to testify before the South African legislature. In 2002, I testified before the Parliament's Finance Committee on the results of a study I undertook in collaboration with the Wits University's School of Public and Development Management, Johns Hopkins University, and the Ford Foundation. In my role at

the HSRC, I regularly met with delegations of visitors sent by the U.S. embassy in South Africa. I have also worked with international organizations such as the United Nations, the European Union, the World Bank and the African Union. The U.S. Agency for International Development (USAID), for instance, funded one of my projects at the Centre for Civil Society in 2002-2003 which was meant to improve the ability of civil society actors to work with local governments. Similarly, in 2006, I managed a research project commissioned by the European Union which advised that body how best to spend 1 billion between 2007 and 2014 to strengthen democracy in South Africa. And most recently, the Norwegian government commissioned me to write a think piece about how to create a progressive foreign policy in Norway.

9. I am or have been a member of many professional and non-profit associations, including some in the U.S. From 1999-2006, I served as a board member for the International Society for Third Sector Research at Johns Hopkins University, an association committed to building a global community of scholars in the fields of civil society, philanthropy, and the non-profit sector. I was also at one time a member of American Political Science Association. I am currently a member of the International Political Science Association and the International Sociological Association. I also serve or have served on the board of numerous South African organizations, including the Harold Wolpe Memorial Trust, the Center for Policy Studies, the Center for Public Participation, the South African Association of Political Studies, the Thusanang Advisory Board, and the Durban University of Technology. I was recently nominated to sit on the Board of the South African Broadcasting Corporation.

10. I have frequently been asked by the press to comment on or analyze matters of national and international importance such as the South African presidential succession,

affirmative action, foreign affairs, higher education transformation, and the reform of the United Nations. The U.S. press regularly seeks my comment and analysis on these topics as well. *See, e.g.*, Exh. A (Craig Timberg, *ANC Members Raucously Defy S. African Movement's Elite*, Wash. Post, Dec. 18, 2007 (commenting on ANC party politics); Sharon Lafraniere, *Mbeki's Support Erodes in Party Vote in South Africa*, N.Y. Times, Nov. 28, 2007 (same); Michael Wines, *Shantytown Dwellers in South Africa Protest Sluggish Pace of Change*, N.Y. Times, Dec. 25, 2005 (commenting on protests); Lydia Polgreen, *As South Africa Awaits Bush, Anti-U.S. Feeling Is in the Air*, N.Y. Times, July 8, 2003 (commenting on public sentiment about President Bush's visit to South Africa); Michael Grunwald, *In Echo of Apartheid Fight, Public Pushes S. Africa on AIDS*, Wash. Post, Jan. 28, 2003 (commenting on AIDS policy); Rachel L. Swarns, *Power Deal In Pretoria Seems Tilted To the A.N.C.*, N.Y. Times, Nov. 29, 2001 (commenting on national party politics)).

11. I have published opinion pieces about domestic and foreign policy matters in numerous South African newspapers and magazines. *See, e.g.*, Exh. B (Adam Habib, *Lessons for the King of Polokwane*, Sunday Tribune, Sunday Independent, Dec. 23, 2007 (discussing the lessons the new President of the ANC could learn from his predecessor); Adam Habib, *'Philosopher President' Revealed as No More Than a Vindictive Politico*, Sunday Times, Dec. 16, 2007 (discussing why President Mbeki lost the support of South Africa's middle class); Adam Habib, *Time to Rethink Affirmative Action*, Mail & Guardian, Oct. 28, 2007 (arguing that South Africa's redress policy needs to be rethought if it is to be made compatible with its cosmopolitan constitution); Adam Habib, *Palestine a Fork in the Road for SA*, Business Day, July 16, 2007 (arguing that South Africa should recognize neither the Hamas or Abbas

governments and build coalitions to advance principled policy decisions); Adam Habib, *Scramble for an African Response*, Business Day, June 26, 2007 (discussing how South Africans should engage the U.S. and China); Adam Habib, *Reffing and Revving*, Financial Mail, Jan. 12, 2007 (analyzing political events and opining on traits the next South African President must possess); Adam Habib, *In Search of Our Humanity*, Sunday Times (South Africa), Aug. 6, 2006 (evaluating President Mbeki's keynote address and the continued marginalization of segments of South Africa's citizenry); Adam Habib, *Do the People Have Power Yet?*, Sunday Times (South Africa), Apr. 4, 2004 (addressing the relationship between formation of opposition political parties, poverty alleviation, and national economic policy); Adam Habib and Sanusha Naidu, *A Racial Census By Default*, Financial Mail, Mar. 26, 2004 (discussing the relationship between race and party affiliation in the context of the upcoming national election); Adam Habib, *Race Policies Will Haunt Black Elite*, Sunday Times (South Africa), Sept. 28, 2003 (analyzing race and politics)). I have published opinion pieces in newspapers and magazines in other countries as well. Exh. C (*Africa's Hegemon*, The Economist, Apr. 6, 2006 (U.S. edition) (analyzing President Mbeki)), and, in December 2007, I served as the BBC's principal political analyst on the African National Congress succession race.

12. Because of the nature of my work, I frequently travel outside South Africa, including to the U.S., to speak and meet with scholars, researchers, government bodies, and non-profit organizations. Some of the many countries to which I have traveled to speak with other scholars, researchers, or officials include Britain, Canada, Spain, Austria, Germany, France, the Netherlands, Korea, Iran, Italy, Israel, Norway, India, Brazil, Costa Rica, Thailand, Kenya, and Uganda.

13. Before October 2006, I frequently traveled to the U.S. I studied and lived in the New York City for approximately three years to pursue my PhD at the City University of New York. The U.S. issued me a student visa for those years.

14. Later, I obtained visitor visas which allowed me to travel to the U.S. to attend meetings and conferences, give speeches, meet with government officials and with private foundations. In 1998, I traveled to Boston to attend a conference of the American Political Science Association. In 1999, I traveled to the U.S. to attend the board meetings of the International Society for Third Sector Research at Johns Hopkins University. In 2001, I visited research centers in Miami, New York, Washington, D.C., Boston, and Baltimore on behalf of the University of KwaZulu-Natal. In November 2002, I attended meetings of the United States-South Africa Bi-National Commission held that year at Duke University. I returned to Duke University in December 2003 to present a paper at that year's meeting of the Bi-National Commission. My new position at the University of Johannesburg requires me to maintain relationships with U.S.-based scholars, funders, and institutions. Each year I receive at least a handful of invitations to speak at and attend conferences in the United States.

15. I have collaborated on, and continue to collaborate on, research and other scholarly projects with U.S.-based scholars and U.S.-based institutions. For example, in the late 1990s, I was part of the South African team for a multinational study on Peace and Conflict Resolution Organizations in Israel/Palestine, Northern Ireland and South Africa, co-directed by Prof. Stanley Katz of the Woodrow Wilson School at Princeton University and Prof. Ben Gidron of the Israeli Centre for Third Sector Research at the Ben Gurion University. Subsequently, I participated in the United States-South Africa Bi-National Commission on Civil Society, coordinated by Dr. James Joseph of Duke University, who served as the U.S.

ambassador to South Africa in the mid-1990s. More recently, I directed a project on social movements in South Africa, which involved working with Dr. Elke Zuern from Sarah Lawrence College in New York, who collaborated on the project. I have also agreed to assist Sarah Lawrence College in assessing the body of Dr. Zuern's academic work, as part of their tenure appointment process. Most recently, I have agreed to be part of a multinational research initiative on inequality in the developing world coordinated by Barbara Stallings and Patrick Heller from the Watson Institute for International Studies at Brown University. In addition, I have received funding for my research from a number of American philanthropic institutions including, among others, the Ford Foundation, the Mott Foundation, and Atlantic Philanthropies.

October 2006 Revocation of Visa

16. On October 20, 2006, I boarded a plane bound for the United States. I was traveling with my wife Fatima, who was then an executive with the State Information Technology Agency and who was traveling on separate business. I was to be met in New York the following day by a delegation of scholars and researchers from the HSRC. The HSRC delegation was traveling to the U.S. for a week-long series of meetings with governmental and international bodies, academic institutions, research institutions, and foundations. We were scheduled to meet with, among others, officials from the United Nations Democracy Fund, the World Bank, the State Department's Office of the U.S. Global AIDS Coordinator, the National Institutes of Health, the National Science Foundation, and the Centers for Disease Control and Prevention; with representatives from research institutions such as the Social Science Research Council, the Center for Global Development, and the National Academies; and with scholars from Columbia University, George Washington University, and Spelman College; and with

representatives from U.S. foundations including the Carnegie Foundation, the Henry J. Kaiser Family Foundation, and the Open Society Institute. I had also scheduled individual meetings with scholars from Columbia University, the City University of New York, Sarah Lawrence College, and the University of Virginia.

17. We arrived at John F. Kennedy ("JFK") airport in New York City on the morning of October 21, 2007. Upon arrival my wife was permitted to enter the country without incident. I, however, was detained for more than seven hours, questioned by U.S. Customs and Border officials, and prevented from entering the U.S. While I was detained, I was questioned about my political views and was asked whether I belonged to or had supported any terrorist organization. I answered all questions put to me and denied any support for terrorists or terrorist activities. Eventually, border officials told me that my visa had been revoked by the Department of State; specifically, by Deputy Assistant Secretary of State for Visa Affairs Tony Edson. I was told that I could either withdraw my application for admission or be deported to South Africa. I chose to withdraw my application. I was escorted by armed guards to a return flight to Johannesburg and arrived back in South Africa approximately 40 hours after I had left for the U.S.

18. Though I found the U.S. government's decision to revoke my visa inexplicable and baffling, I tried to react to the situation with dignity, even though the entire ordeal was humiliating and degrading.

19. My exclusion garnered press attention both in South Africa and the U.S. *See, e.g.*, Exh. D (Craig Timberg, *Prominent S. African Denied Entry Into U.S.*, Wash. Post, Oct. 26, 2006; *Muslim Analyst From South Africa Not Allowed in U.S.*, Seattle Times, Oct. 26, 2006; Clare Nullis, *South African Anti-Corruption Campaigner Refused Entry at JFK*,

International Herald Tribune, Oct. 25, 2006; *SA Scholar Habib Speaks Out After US Deportation*, SABC News, Oct. 24, 2006.) Some U.S.-based organizations, such as the American Sociological Association, the American Association of University Professors, and the American Association for the Advancement of Science, as well as individual scholars such as Alison Bryske, Andrew Lawrence, Michael Burawoy, Larry Diamond, Jack Jacobs, Tom Karis, Stanley Katz, Arien Mack, Irving Leonard Markovitz, Michael MacDonald, Francis Piven, Gay Seidman, and Susan Woodward made inquiries and lodged protests with the State Department on my behalf. South African opinion pages protested my exclusion and called for an explanation. *See, e.g.*, Exh. E (*Unfriendly America*, Editorial, Sunday Tribune, Oct. 29, 2006; *Deplorable US Behavior*, Editorial, Daily Dispatch, Oct. 26, 2006). The South African Foreign Affairs Department requested an explanation for my exclusion from the State Department. Deputy Foreign Minister Aziz Pahad stated in a media briefing that the situation was “unacceptable” and remarked on the “worrying trend” of increasing numbers of South Africans being turned away at U.S. borders without explanation. Exh. F (Wyndham Hartley, *Pahad Concerned by US Expulsions*, Business Day, Oct. 27, 2006). The South African Ambassador to the U.S. also sought information on the matter. South Africa’s Human Rights Commission filed a formal complaint with the U.S.

20. Despite these inquiries and protests, U.S. officials refused to explain their actions. For example, the Associated Press reported that the State Department “acknowledged that it had revoked [my] visa but declined to say why.” Exh. D (Clare Nullis, *South African Anti-Corruption Campaigner Refused Entry at JFK*, International Herald Tribune, Oct. 25, 2006). The Washington Post reported that a U.S. Embassy spokesperson “confirmed the

incident but said he did not know why [I] had been denied entry.” Exh. D (Craig Timberg, *Prominent S. African Denied Entry Into U.S.*, Wash. Post, Oct. 26, 2006).

21. My own efforts to seek an explanation from the U.S. government and rectify the situation were also unavailing. I approached the task with some urgency as I had an upcoming speaking engagement with the American Sociological Association (“ASA”). I inquired repeatedly with U.S. agencies and officials, both in Washington and in South Africa about the reason for the U.S. government’s actions. *See, e.g.*, Exh. G (Letter from Adam Habib to U.S. Customs and Border Protection dated Oct. 25, 2006); Exh. H (Letter from Adam Habib to Secretary Rice dated Jan. 16, 2007). The only response I received was a letter from from Customs and Border Protection stating that a search of my name in its database “produced no records” responsive to my request. Exh. I (Letter from Cleatus P. Hunt to Adam Habib dated Nov. 7, 2006).

22. Despite the lack of any official explanation, there were rumors. Some suggested that it was a case of mistaken identity while others, including high-ranking public officials in South Africa, informed me that it concerned my involvement in anti-Iraq war demonstrations and the fact that photographs of me addressing an anti-war rally were in a U.S. database.

23. Instead of things quickly being resolved, they took a turn for the worse. Three months after the JFK incident, my wife received a call from John Webster, a U.S. consular official, who informed her that the State Department was revoking her visa and the visas of my two sons Irfan, who is 12, and Zidaan, who is 8. The news was particularly bad for Irfan. He had been invited to travel to the U.S. to participate in the Junior Ambassadors’ Program – a

program created by President Dwight Eisenhower in 1956 to encourage international understanding and peace.

24. On January 17, 2007, I wrote to protest to the State Department the revocation of my family's visas. Exh. J (Letter from Adam Habib to Secretary Rice dated Jan. 17, 2007). On February 22, 2007, Maura Harty, Assistant Secretary for Consular Affairs wrote to me by letter and informed me, for the first time, that my visa had been "prudentially revoked under Section 222(i) of the U.S. Immigration and Nationality Act as a result of information the United States Government received, indicating [I] may not be eligible for the visa." Exh. K (Letter from Maura Harty to Adam Habib dated Feb. 22, 2007). The letter did not explain the nature of the "information" but it indicated that I could apply for another visa. *Id.*

25. The press and public remained very critical of the U.S.'s actions, and even the South African Deputy Minister of Foreign Affairs continued to speak out publicly on the matter. *See, e.g.*, Exh. L (Transcript, Charlayne Huntera-Gault, NPR Morning Edition, Jan. 31, 2007) (Deputy Minister Pahad stating that the exclusion of me and my family was "wrong" and rejecting insinuations that we were security threats).

26. I continued to receive invitations to speak in the U.S. despite the revocation of my visa. But the revocation prevented me from meeting and speaking with scholars, students, government officials, foundation officials, and research colleagues here in the United States.

May 2007 Visa Application

27. On May 9, 2007, I contacted the U.S. Consulate in Johannesburg to submit a new application for a multiple entry B visitors visa. I decided to apply for a new visa because it appeared that the problems associated with my old visa would not be rectified, because I was slated to speak at the ASA's 2007 Annual Meeting in August, and because I knew I would

continue to receive invitations to speak in the United States that I would be unable to attend without a new visa.

28. I hoped for and expected a prompt decision on my application. At the time I submitted the application, the State Department website indicated that, at the consulate in Johannesburg, the “Typical Wait Time (Workdays) for a Nonimmigrant Visa to be Processed” (excluding the interview wait-time) was 2 days. While the website stated and continues to state that these wait times do not include “the time required for additional special clearance or administrative processing,” the website states that “[m]ost special clearances are resolved within 30 days of application.” *See generally*

http://travel.state.gov/visa/temp/wait/tempvisitors_wait_result.php?post=Johannesburg&x=112&y=10 (listing wait times for U.S. consulate in Johannesburg).

29. The consulate scheduled my required visa interview for May 11, 2007. That day, I arrived at the consulate, submitted my application, and was interviewed by Charles Luoma-Overstreet, U.S. Senior Consul and Country Consular Coordinator for South Africa. During the course of the interview, Mr. Luoma-Overstreet asked me about my political views and associations, about my brief (and unlawful) detention by the apartheid regime in 1986, and whether I had any ties to terrorism. I denied any involvement with groups engaged in or supportive of terrorism. I answered every question honestly and in good faith. During the course of the interview, Mr. Luoma-Overstreet indicated that it had been the Department of Homeland Security, and not the State Department, that had been responsible for the revocation of my visa.

30. At the conclusion of the interview, Mr. Luoma-Overstreet explained to me that my application would be processed in Washington, and he presented me with a letter that had

obviously been prepared before I arrived. The letter, signed by Mr. Luoma-Overstreet, stated that my application would require “administrative processing and additional clearance/review in Washington,” and that further action in my case was suspended “pending the receipt and review” of information from Washington. Exh. M (Letter from Luoma-Overstreet to Adam Habib). While the letter stated that processing the application required “additional information,” I was not asked to provide the consul with any further information. *Id.* The letter also stated that because the “review involves Washington-based offices outside of [the] Consulate,” the Senior Consul was “unable to provide a firm estimate of how long the process [would] take to complete.” *Id.* Mr. Luoma-Overstreet confirmed that since the application would be processed in Washington, he could not provide an estimate.

31. In June, I began inquiring with the consulate as to the status of my application. On July 11, 2007, I received a phone call from consular official John Webster who informed me that State Department officials in Washington had promised him they would have a final answer on the application by the week of July 16, 2007. That date passed, however, without action. When I inquired again, the consulate informed me that State Department officials in Washington now said they would have a response by July 30, 2007. That date also passed without action. Thereafter, my colleague, Emelda Manjezi, and I made frequent inquiries with the consulate because the date of the ASA event was fast approaching. Each time we were informed that the State Department officials in Washington had not yet rendered a decision and that the consulate had no further information.

32. On August 7, 2007, 48 hours before I was scheduled to depart for New York, consular officials informed me that officials in Washington were still processing my visa application and that they would not reach a decision in time for me to speak at the ASA

conference on August 11, 2007. I was disappointed, to say the least, and regretted that I would have to leave ASA in the lurch. I also grew concerned about my many other upcoming speaking engagements in the U.S. Since filing my visa application, I had been invited to speak at the Association for Research on Nonprofit Organizations and Voluntary Association's annual conference in Atlanta in November 2007, the American Association of University Professors June 2008 Annual Meeting in Washington D.C., the ASA's August 2008 Annual Meeting in Boston, and a public event hosted by the Boston Coalition for Palestinian Rights and the American-Arab Anti-Discrimination Committee's Massachusetts Chapter in Boston that same month. I had also received a preliminary, verbal invitation to speak at a March 2008 conference on governance at the Ash Institute for Democratic Governance and Innovation at Harvard University's John F. Kennedy School of Government. I informed the consulate of these invitations after I missed the ASA event, but still there was no action on my visa application.

The Filing of This Lawsuit and the Denial of My Visa Application

33. On September 25, 2007, after my visa application had been pending for almost five months, U.S. organizations that have invited me to speak in the U.S. filed this lawsuit challenging my exclusion and the government's failure to act on my visa application.

34. On October 26, 2007, Mr. Luoma-Overstreet informed me by telephone that the State Department had denied my visa application. I asked Mr. Luoma-Overstreet about the specific basis for the denial but he told me that he could not provide me with any further information as to the government's reasons and suggested that he did not know the specific basis.

35. Upon my request, Mr. Luoma-Overstreet faxed to me the visa denial letter. The letter, dated October 26, 2007 and signed by Luoma-Overstreet, stated that the Department of State had “concluded an interagency review of the prudential revocation of [my] nonimmigrant visa,” and that the State Department had “upheld a finding of [my] inadmissibility under section 212(a)(3)(B)(i)(I) of the United States Immigration and Nationality Act.” Exh. N (Letter from Charles Luoma-Overstreet to Adam Habib dated Oct. 26, 2007). A copy of the referenced statute was attached to the letter. The letter further stated that the State Department had considered whether I was eligible for a waiver of inadmissibility but “ha[d] determined that it [would] not recommend a waiver of ineligibility in [my] case.” *Id.* According to the letter, the consulate could take “no further action” on my application. *Id.*

36. The statute referenced in the letter applies to individuals who have “engaged in a terrorist activity,” but I have no idea why the U.S. government has made this accusation against me, particularly as it has issued me visas in the past. According to my lawyers, the statute the government has pointed to actually references many different kinds of activities, but I do not know which of these activities the government is accusing me of engaging in. The government has never provided any further explanation as to why it believes that this statute applies to me.

37. The notion that I have “engaged” in terrorism in any sense of the term, that I am a supporter of terrorism, or that I could be deemed a national security threat is simply absurd. The statute the government has pointed to in order to deny my visa applies to people who have participated in or planned violent terrorist acts, who have incited others to engage in terrorist violence, who have solicited funds for terrorist acts or terrorist organizations, who have solicited individuals to engage in terrorism or to join terrorist organizations, or who have

knowingly provided material support to for violent terrorist acts or terrorist organizations. I have never done any of these things. I have repeatedly condemned terrorism in my writings, public speeches, and private conversations, particularly the September 11, 2001 attacks – senseless acts which occurred in a city where I had lived.

38. Because I live my life quite publicly, my writing, opinions, and political views are there for the world to see. I believe that terrorism is morally reprehensible. As an expert on social movements, I also believe that terrorism is strategically problematic and ineffective. Terrorism only alienates support for the cause in question and polarizes society thereby inhibiting the establishment of the social bridges that makes legitimate political change possible.

39. Terrorism is also entirely inconsistent with the model of social change and just, democratic society for which I advocate. I believe in peaceful political transition. The South African political transition, with all of its weaknesses, serves as my model and that that transition was largely accomplished through the peaceful means, not terrorism or mass violence. I also believe that we should have diverse, pluralistic societies with constitutions, like South Africa's, that protect a diversity of races, religions, and ethnicities. And I strongly believe that religion should be used as a force for good, not violence. *See, e.g., Adam Habib, *Giving and Solidarity: Resource Flows for Poverty Alleviation and Development in South Africa* (HSRC Press, 2007)* (discussing the role of religion in development and noting that “the societal fissures and political polarization produced by more extremist religious interventions” must be avoided).

40. I have, however, urged governments to respond to the threat of terrorism with policies that are consistent with human rights norms and the rule of law. For example, I have

written that: “The South African Constitution is very clear: it allows our government to undertake or participate in the ‘war against terror,’ but only within the framework of respect for the human rights of its citizens. . . . If there are terrorists in our midst then we must take strong action against them. But such action must be based on evidence. We must not allow the witch-hunt atmosphere apparently prevailing in the U.S. to infect us. If the U.S. makes allegations against our citizens, it must place evidence on the table.” Exh. O (Adam Habib, *Reflections of a Banned South African*, Mail & Guardian, Jan. 26, 2007); *see also* Exh. P (SA *Querying ‘al-Qaeda Men*, News 24.com, Jan. 21, 2007) (stating that South Africa should demand evidence from U.S. before determining that men accused were terrorists but that “if the terror links were proven, action should be taken”). I do not believe my views in this regard are controversial.

41. I am also a vocal critic of many U.S. policies. I have publicly criticized the war in Iraq in public speeches and radio interviews, I have attended or spoken at many anti-war demonstrations, and I am affiliated with some South African organizations that are publicly critical of the war. *See, e.g., Poverty Brief – April 2003*, South African Regional Poverty Network, available at <http://www.sarpn.org/documents/d0000288/index.php> (reporting on public discussion wherein I criticized the war and discussed its implications for Africa). I have publicly criticized certain U.S. terrorism policies, such as the U.S. government’s indefinite detention of prisoners at Guantanamo Bay and the practice of “rendering” terrorism suspects to third countries known to torture prisoners because I believe these policies are unjust and also counterproductive in that they fuel the anti-American sentiment that only fuels terrorism. *See, e.g.,* Exh. O Adam Habib, *Reflections of a Banned South African*, Mail & Guardian, Jan. 26, 2007 (remarking on the U.S. detention system at Guantanamo Bay and stating that “detention

without trial" is "an abhorrent repressive mechanism that many South Africans experienced under apartheid"). I have also publicly criticized certain U.S. policies in Africa, and its approach to foreign policy there. Exh. B (Adam Habib, *Scramble for African Response*, Business Day, June 25, 2007) (criticized the U.S. government for aligning with authoritarian regimes and fomenting proxy wars in Africa); Exh. A (Linda Polgreen, *As South Africa Awaits Bush, Anti-U.S. Feeling Is in the Air*, N.Y. Times, July 8, 2003) (quoting me about how unpopular President Bush was in South Africa on the eve of his visit there).

42. To be sure, my public criticism of the Iraq war and certain terrorism or foreign policies – sentiments that are shared and expressed by countless individuals throughout the world – cannot render me a national security threat. And it is important to note that I am equally critical of other governments, including my own, and quite publicly so. I believe that it is a duty of citizenship in a democratic country to be thoughtful and, if need be, critical of one's government. I also believe that we all have a duty to speak out against injustice, even if the injustice occurs in other countries or at the hands of a government not your own.

43. While I am certainly not a terrorist or a supporter of terrorists, that label and the terrible stigma that comes with it, now travels with me. I do not believe that the U.S. government should be able to label me a terrorist without any evidence to back up its charge and without giving me any opportunity to rebut their claims. I am thankful that Aziz Pahad, South Africa's Deputy Minister of Foreign Affairs, publicly refuted the insinuation that I am in any way a national security threat back when my visa and my families' visas were originally revoked. See Exh. L (Charlayne Hunter-Gault, NPR Morning Edition, Jan. 31, 2007) (Deputy Minister Pahad discussing Professor Habib's exclusion and stating he has "never had any indication that Professor Habib and his family were involved in any activities that could widely

be called terrorism.”). The South African Minister for Intelligence Services, Ronnie Kasrils, has also publicly questioned the U.S. government’s revocation of my visa at a public forum attended by American and African policymakers and terrorism experts. Exh. Q (Address by Ronnie Kasrils, MP, Minister for Intelligence Services, Jan. 25, 2007, available at <http://www.intelligence.gov.za/Speeches/2007/Speech%20Minister%209%20Jan%202007.doc> A number of South African institutions and the press, including among others, the Centre for Civil Society at the University of Kwazulu-Natal, the Human Science Research Council, The Institute for Democracy in South Africa, the Freedom of Expression Institute, the Mail & Guardian, the Daily Dispatch, the Sunday Independent and the Sunday Tribune have condemned both my visa denial and the terrorist accusation. The “terrorist” label, however, remains in the air.

44. I have close ties to the United States, and my ability to travel the United States to meet and speak with others is vital, for both personal and professional reasons. With respect to my professional obligations, my job at the University of Johannesburg still requires me to work and maintain my relationships with U.S. scholars, institutions and donors. Indeed, we are currently involved in discussions with a number of U.S. universities and research institutions about potential research and other academic partnerships. This will necessitate face-to-face meetings in the near future and my inadmissibility in the U.S. is likely to complicate matters. My exclusion from the U.S. also prevents me from meeting and speaking with scholars, students, government officials, foundation officials, and research colleagues in the United States. The government’s delay in adjudicating my visa application prevented me from attending the ASA’s 2007 Annual Meeting. Now, its unsubstantiated denial of my visa on the grounds that I have somehow “engaged” in terrorist activity prevented me from attending my

speaking engagement with ARNOVA this past November, and prevents me from attending upcoming events to which I have been invited by the American Sociological Association, the American Association of University Professors, the American-Arab Anti-Discrimination Committee, and the Boston Coalition for Palestinian Rights. I continue to receive invitations to speak in the U.S. but cannot accept those invitations.

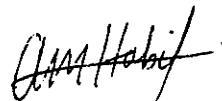
45. My exclusion from the U.S. also harms my scholarly and research collaborations with U.S.-based scholars and institutions. Already I have been unable to present papers to academic conferences in the U.S. and therefore have not had the benefit of subjecting my ideas to peer review among my U.S. colleagues. My exclusion is also likely to compromise my participation in my new research initiative with Brown University.

46. My exclusion from the U.S. has also had negative effects on me and my family. It is extremely difficult to explain to two children of 12 and 8 why a foreign government declares them and their parents barred from a country that they have visited without incident on multiple occasions. My family has many wonderful relationships with American citizens, most of which developed when I lived in New York while obtaining my PhD. Some of my favorite family memories include feeding the ducks in Central Park with my son Irfan when I came to defend my dissertation, riding the subway with him to lull him to sleep, snowball fights with both my sons in the middle of Manhattan, and our trip to Disney World in 2003. The U.S. is a country where we have fond memories and good friends. It is part of our world and having it taken away has been difficult for us all.

47. My exclusion has also placed significant burdens on those in the U.S. who invite me to speak at and attend their events. More importantly, I think my inability to communicate in-person with U.S. audiences harms the global exchange of ideas and prevents

Americans from hearing different viewpoints. Many of the world's most pressing problems require a global conversation about the very topics I study: how to build and nourish healthy democracies and how to build societies based on the principles of equality, fairness, justice, and meaningful public participation in government. In fact, these issues are vital to confronting the problem of terrorism and are worthy of global conversation.

Executed on this 11 day of February, 2008

A handwritten signature in black ink, appearing to read "Adam Habib".

ADAM HABIB

Exhibit A

ANC Members Raucously Defy S. African Movement's Elite

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Advertisement

By Craig Timberg
Washington Post Foreign Service
Tuesday, December 18, 2007; A08

POLOKWANE, South Africa, Dec. 17 -- Africa's iconic liberation movement is this week facing urgent new demands from its members to display the same principles of open, accountable rule that it long demanded of apartheid South Africa.

The African National Congress's national conference, which in past years has settled for blessing decisions made by a small circle of party elders, has over two days assumed the fervent, high-decibel atmospherics that once characterized anti-apartheid rallies, complete with singing, dancing and calls for powerful officials to bow to the popular will.

While the stakes are far different in an era when racial freedom is already entrenched in law, the many outbursts amount to rebukes not only of President Thabo Mbeki and his closest political allies but also of the ANC's style of leadership. Many of the movement's leaders, particularly those of Mbeki's generation, received schooling in Eastern Europe during the Cold War, and the party of that era came to value discipline, probity, a resistance to airing disputes in public and fidelity to decisions reached by consensus among a relatively small number of top officials.

"It's a certain approach to leadership . . . in which a small elite leads the masses," said Mark Gevisser, author of "Thabo Mbeki: The Dream Deferred." "It has never really been a mass-based organization."

The tension between Mbeki's style and the more raucous approach of many of the delegates has surfaced repeatedly at the national conference, held on a university campus outside the northern city of Polokwane. On Sunday, when the party's elderly treasurer, Mendi Msimang, scolded delegates for their demonstrations and asked if they intended to repudiate the party's ruling National Executive Committee, many in the crowd shouted back, "Yes!"

The national conference, held once every five years, selects the party's next president. This year, the choice is between Mbeki, the incumbent, and the charismatic former anti-apartheid guerrilla Jacob Zuma, whom Mbeki fired as the nation's deputy president in 2005 over allegations of corruption.

The race is the first battle for the ANC presidency to reach the floor of a national conference in more than 50 years. Voting was expected to start Tuesday morning, with results expected later Tuesday. If Zuma wins the party post, he would be in line to run for the national presidency in 2009; Mbeki is constitutionally prohibited from running for a third term.

Zuma is 65, the same age as Mbeki, and the two men have shared a long history. But Zuma has brought a more modern, populist style of politics to the contest, organizing energetically at grass-roots levels, talking about divisive issues such as the death penalty and openly acknowledging his interest in becoming party president -- something long taboo in the ANC, whose members typically say they would happily serve the party in whatever capacity the membership desires.

Mbeki has attempted to become more accessible in recent weeks as well, granting a series of interviews with newspaper and radio stations -- a tactic he had mostly spurned in the past.

But judging by the conference crowd's cheers and jeers, Mbeki has gained little new support in the weeks

since Zuma trounced him in regional nominating conventions. Delegates here say that Mbeki, in 10 years as party president and eight as president of the nation, has been aloof and imperious, often handing down decisions rather than have them percolate up from the party's members.

"He was leading like Moses," said Jackport Ndinisa, one of thousands of conference delegates who responded to a long speech by Mbeki on Sunday by singing a liberation anthem, "Bring Me My Machine Gun," that is associated with Zuma.

Party leaders, especially those allied with Mbeki, have repeatedly warned delegates that they may be ejected for such partisan displays. But Zuma supporters say they are merely bringing the rough-and-tumble tactics of democracy to a party unaccustomed to them.

"It's about holding your leaders accountable," said political analyst Adam Habib. "That's something you have to celebrate."

Mbeki, the son of the late Govan Mbeki, an ANC and Communist Party stalwart, received military training in the Soviet Union. And although the younger Mbeki left the Communist Party in 1990 and embraced cautious fiscal policies and free-market principles as president, analysts frequently describe his leadership style as authoritarian.

Mbeki has done nothing to dispel that impression in his appearances here so far. In speaking to the conference, he lamented the corruption, selfishness and careerism he said had infected the party's ranks over the past five years, a period in which its membership has jumped nearly 50 percent. He suggested that the party needed to improve the quality of its membership, saying, "Better fewer, but better!"

The line was from an essay written by Vladimir Lenin in 1923, when he was leading the recently formed Soviet Union.

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November 28, 2007

Mbeki's Support Erodes in Party Vote in South Africa

By SHARON LaFRANIERE

JOHANNESBURG, Nov. 27 — With a national conference looming in mid-December to choose the next leader of South Africa's ruling party — and by extension, the nation's probable next president — President Thabo Mbeki's control of the party has shifted to his former vice president and bitter rival, the populist politician Jacob Zuma.

Votes by party delegates over the last four days indicate that Mr. Zuma has accumulated a solid lead in the race for president of the African National Congress, despite a résumé that includes an unsuccessful prosecution for rape and a possible future prosecution for political corruption.

Party delegates from five of South Africa's nine provinces nominated Mr. Zuma as their top choice for leader by convincing margins in contests that began Friday. Mr. Mbeki led the list of nominees in four provinces by slimmer margins. On Monday, the party's influential Women's League narrowly threw its support to Mr. Zuma, despite Mr. Mbeki's record of promoting women to top government posts.

Mr. Mbeki has been president of South Africa for eight years but is barred constitutionally from seeking a third term.

Analysts characterized the votes as a political watershed: an emphatic rejection of Mr. Mbeki's aloof and sometimes arrogant style of leadership and a sign that his policies have alienated

crucial, more liberal elements of the party.

"It is absolutely amazing," said Adam Habib, a political analyst at the University of Johannesburg. "It is not that Zuma is popular but that Mbeki is hated. People are crawling out of the woodwork and saying, 'This is my chance to get back at you.'"

Mr. Mbeki will leave office in early 2009. He is trying to keep his position as head of the African National Congress mainly in order to influence who will succeed him as the nation's president. Both he and his predecessor, Nelson Mandela, were elected president after they were picked to lead the African National Congress. If Mr. Zuma is picked as the party's chief, he would be the heir apparent to the presidency.

For many, the provincial results raise the question of whether Mr. Mbeki will withdraw from the leadership race or risk an even bigger humiliation at the party's national conference in less than a month. Mr. Mbeki's chances of persuading enough delegates to switch from Mr. Zuma to him are considered slim.

"He would need to swing almost a quarter of the voting delegates," said Susan Booyens, a political scientist at the University of the Witwatersrand. "To pull that off would be the most amazing lobbying effort in history."

Despite his new status as the front-runner, Mr. Zuma's selection as party leader next month is not assured, mainly because of the risk that he will soon face corruption charges, political analysts said.

Mr. Mbeki fired Mr. Zuma as deputy president in 2005 after investigators linked Mr. Zuma to a bribery scheme involving a multibillion-dollar military contract. A criminal case against Mr.

Zuma was thrown out on a technicality, but a recent court decision opened the prospect he could be charged again.

"In you are in A.N.C., this is your headache: you pick the guy and suddenly he gets charged with corruption," Mr. Habib said. "The party elite is concerned about that."

Kgalema Motlanthe, the party's secretary general, told a radio station on Monday night that the nomination process might overlook talented party members. Some read his remarks as a suggestion that party leaders will search for a compromise candidate who might unite the Mbeki and Zuma camps.

Among the possibilities, analysts suggested, are Foreign Affairs Minister Nkosazana Dlamini-Zuma, Mr. Zuma's ex-wife, and Cyril Ramaphosa, one of the nation's leading businessmen.

Mr. Zuma enjoys widespread support among South Africa's poor blacks, many of whom feel left out of South Africa's economic prosperity. He is also backed by the nation's trade unions and the Communist Party.

His ties to his party's left wing worry some corporate leaders. But Steven Friedman, a political analyst with the Institute for Democracy in South Africa, predicted that if elected president, Mr. Zuma would not veer sharply from Mr. Mbeki's economic track.

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December 25, 2005

Shantytown Dwellers in South Africa Protest Sluggish Pace of Change

By **MICHAEL WINES**

JOHANNESBURG, Dec. 24 - Sending what some call an ominous signal to this nation's leaders, South Africa's sprawling shantytowns have begun to erupt, sometimes violently, in protest over the government's inability to deliver the better life that the end of apartheid seemed to herald a dozen years ago.

At a hillside shantytown in Durban called Foreman Road, riot police officers fired rubber bullets in mid-November to disperse 2,000 residents marching to the municipal mayor's office downtown. Two protesters were injured; 45 were arrested. The rest burned an effigy of the city's mayor, Obed Mlaba.

Their grievance was unadorned: since Foreman Road's 1,000 shacks sprang up nearly two decades ago, the only measurable improvements to the residents' lives amounted to a single water standpipe and four scrap-wood privies. Electricity and real toilets were a pipe dream. Promises of new homes, they said, were ephemeral.

"This is the worst area in the country," said one resident, a middle-aged man who identified himself only as Senior. "We don't so much need water or electricity. We need land and housing. They need to find us land and build us new homes."

In Pretoria that week, 500 shantytown residents looted and burned a city council member's home and car to protest limited access to government housing. Two weeks earlier, protesters burned municipal offices in Promosa after being evicted from their illegal shanties. In late September, Botleng Township residents rioted after a sewage-fouled water supply caused 600 cases of typhoid and perhaps 20 deaths.

And just Thursday, Cape Town officials warned residents of a vast shantytown near the city airport that they faced arrest if they tried to squat in an unfinished housing project nearby.

South Africa's safety and security minister said in October that 881 protests rocked slums in the preceding year; unofficial tallies say that at least 50 were violent. Statistics for previous years were not kept, but one analyst, David Hemson of the Human Sciences Research Council in Pretoria, estimated that the minister's tally was at least five times the number of any comparable previous period.

"I think it's one of the most important developments in the postliberation period," said Mr. Hemson, who leads a project on urban and rural development for the council. "It shows that ordinary people are now feeling that they can only get ahead by coming out on the streets and mobilizing - and those are the

poorest people in society. That's a sea change from the position in, say, 1994, when everyone was expecting great changes from above."

In fact, the government has made great changes. Since 1994, South Africa's government has built and largely given away 1.8 million basic houses, usually 16 feet by 20 feet, often to former shantytown dwellers. More than 10 million have gained access to clean water, and countless others have been connected to electrical lines or basic sanitation facilities.

Yet at the same time, researchers say, rising poverty has caused 2 million to lose their homes and 10 million more to have their water or power cut off because of unpaid bills. And the number of shanty dwellers has grown by as much as 50 percent, to 12.5 million people - more than one in four South Africans, many living in a level of squalor that would render most observers from the developed world speechless.

For South African blacks, the current plight is uncomfortably close to the one they endured under apartheid. Black shantytowns first rose under white rule, the result of policies intended to keep nonwhites impoverished and powerless. During apartheid, from the 1940's to the 1980's, officials uprooted and moved millions of blacks, consigning many to transit camps that became permanent shantytowns, sending others to black townships that quickly attracted masses of squatters.

Privation led millions more blacks to migrate to the cities, setting up vast squatter camps on the outskirts of Cape Town, Johannesburg, Durban and other cities.

From its first days, South Africa's black government pledged to address the misery of shanty life. That the problem has instead worsened, social scientists, urban planners and many politicians say, is partly the result of fiscal policies that have focused on nurturing the first-world economy which, under apartheid, made this Africa's wealthiest and most advanced nation.

The government's low-deficit, low-inflation strategy was built on the premise that a stable economy would attract investment, and that the wealth would spread to the poor. But while the first-world economy has boomed, it has failed to lift the vast underclass out of its misery.

Unemployment, estimated at 26 percent in 1994, has soared to roughly 40 percent many analysts say; the government, which does not count those who have stopped looking for work, says joblessness is lower. Big industries like mining and textiles have laid off manual laborers, and expanding businesses like banking and retailing have failed to pick up the slack. Many of the jobless have moved to the slums.

So far, the shantytown protests have focused exclusively on local officials who bear the brunt of slum dwellers' rage. But while almost all those officials belong to the governing African National Congress, and execute the party's social and economic policies, "the poor haven't made the connection as yet," said Adam Habib, another scholar at the Human Sciences Research Institute who recently completed a study of South Africa's social movements.

On the contrary, national support for President Thabo Mbeki's governing coalition appears greater than ever before. Still, Mr. Mbeki has been visiting shantytowns and townships, promising to increase social spending and demanding that his ministers improve services to the poor.

For now, nearly half the 284 municipal districts, charged with providing local services, cannot, the national ministry for local government says. Their problems vary from shrunken tax bases to inconsistent allotments of national money to AIDS, which has depleted the ranks of skilled local managers.

Incompetence and greed are rife. In Ehlanzeni, a district of nearly a million people in Mpumalanga Province, 3 out of 4 residents have no trash collection, 6 out of 10 have no sanitation and 1 in 3 lack water - and the city manager makes more than Mr. Mbeki's \$180,000 annual salary.

The frustrations of slum dwellers began to boil over in mid-2004, when residents in a shantytown near Harrismith, about 160 miles southeast of Johannesburg, rioted and blocked a major freeway to protest their living conditions. The police fatally shot a 17-year-old protester. Since then, demonstrations have spread to virtually every corner of the nation.

In Durban, the city is erecting some 16,000 starter houses a year, but the shanty population, now about 750,000, continues to grow by more than 10 percent annually.

The city's 180,000 shanties, crammed into every conceivable open space, are a remarkable sight. Both free-standing and sharing common walls, they spill down hillsides between middle-class subdivisions, perch beside freeway exits and crowd next to foul landfills. They are built of scrap wood and metal and corrugated panels and plastic tarpaulin roofs weighed down with concrete chunks. Their insides are often coated with sheets of uncut milk and juice cartons, sold as wallpaper at curbside markets, to keep both the wind and prying eyes from exploiting the chinks in their shoddily built walls.

The 1,000 or so hillside shanties at Foreman Road are typical. A standpipe at the top provides water, carried by bucket to each shack for bathing and dishwashing. At the bottom, perhaps 400 feet down a ravine, are four hand-dug, scrap-wood privies - each one, on this day, inexplicably padlocked shut. Residents say they seldom trek down to the privies, relieving themselves instead in plastic bags and buckets that can be periodically emptied or thrown away.

The one-room shacks provide the rudest sort of shelter. A bed typically takes up half the space; a table holds cookware; clothes go in a small chest. There is no electricity, and so no television; entertainment comes from battery-powered radios. Residents use kerosene stoves and candles for cooking and heat, with predictable results. A year ago, a wind-whipped fire destroyed 288 shacks here. A fire at a Cape Town shantytown early this month left 4,000 people homeless.

A few shacks are painted in riotous colors or decorated with placards hawking milk or tobacco, or shingled with signs ripped from light poles, once posted to warn that electricity thieves had left live power lines dangling in the street.

The residents say Mayor Mlaba promised during his last election campaign to erect new homes on the slum site and on vacant land opposite their hillside. Instead, however, the city proposed to move the slum residents to rural land far off Durban's outskirts - and far from the gardening, housecleaning and other menial jobs they have found during Foreman Road's 16-odd years of existence.

Lacking cars, taxi fare or even bicycles to commute to work, the residents marched in protest on Nov. 14, defying the city's refusal to issue a permit. The demonstration quickly turned violent.

Afterward, in an interview that he cut short, a clearly nettled Mayor Mlaba argued that the protest had been the work of agitators bent on embarrassing him before local elections next year.

"Of course it's political," he said. "All of a sudden, they've got leaders. There weren't any leaders yesterday. Are they going to be there in 2006 or 2007, after the elections?"

Also suspecting agitators, South Africa's government reacted initially to the shantytown protests by ordering its intelligence service to determine whether outsiders - a "third force" in the parlance of this nation's liberation struggles - sought to undermine the government.

Residents here scoff at that. "The third force," said the man called Senior, "is the conditions we are living in."

In a shack roughly 7 feet by 8 feet, a third of the way down Foreman Road's ravine, Zamile Msane, 32, lives with her 58-year-old mother and three children, ages 12, 15 and 17. Ms. Msane has no job. A sister gives her family secondhand clothes, and neighbors donate cornmeal for food. In seven years, she has fled three wildfires, in 1998, 2000 and 2004, losing everything each time.

Yet Ms. Msane, who came here from the Eastern Cape eight years ago, said she would not return to the farm where she once lived, because there was nothing to eat.

Ms. Msane said she joined the Nov. 14 march for one reason.

"Better conditions," she said. "It's not good here, because these are not proper houses. There's mud outside. We're always living in fear of fires. Winter is too cold; summer is too warm. Life is so difficult."

July 8, 2003

As South Africa Awaits Bush, Anti-U.S. Feeling Is in the Air

By LYDIA POLGREEN

As officials in Pretoria made last-minute arrangements over the weekend to ensure a warm welcome for President Bush when he arrives Tuesday evening, a graffiti writer here worked to convey a very different greeting.

"Bush go home," the writer painted on a wall along the road to the University of the Witwatersrand, a hotbed of anti-Bush activity as post-apartheid South Africa prepares to meet its second American president.

Mr. Bush comes to South Africa, an ally of the United States and its biggest African trade partner, with promises of money to help prevent and treat H.I.V. and AIDS, which infect five million people here, and a renewed American interest in a continent that has often placed last in the range of America's foreign policy concerns.

But Mr. Bush will also face a skeptical nation. He often meets protests on his foreign travels, but South Africans argue they have special grievances against him.

In particular, policy makers here worry that America's approach to foreign policy, which they see as aggressive and unilateralist, could hamper their own efforts to use diplomacy and a multilateral approach to resolve Africa's conflicts.

"American presidents are not popular human beings in this part of the world, that is simply the way it is," said Adam Habib, a professor of politics at the University of Natal. "They protested when Clinton came. But with Bush it is even worse. The way they see American foreign policy developing concerns South Africans. It is a combination of gunboat diplomacy and checkbook diplomacy that undermines other kinds of diplomacy."

In another sign of wariness here, Nelson Mandela, a must-meet for any world leader visiting South Africa, is conspicuously out of the country after criticizing Mr. Bush yet again last month over the war in Iraq.

A coalition of 300 activist groups has promised demonstrations against what they describe as

America's "imperial agenda," though a dry run on Saturday drew only a few hundred people.

Newspaper writers have had stern words for Mr. Bush. An article headlined "The master of empty promises" in the weekly Mail & Guardian criticized Mr. Bush for "repackaging old promises and dazzling his critics with new pledges to be delivered on future dates."

As she talked Sunday about the presidential visit with a group of friends, Dimkatso Raphoto, 24, a receptionist from Soweto, was cynical about Mr. Bush's motives for coming to Africa, saying he was concerned only with American commercial interests and oil. "He knows nothing about Africa or the rest of the world," Ms. Raphoto said. "He mustn't come near Soweto."

This skepticism about Mr. Bush specifically and American power in general has deep roots here, said John Stremlau, a professor of international relations at the University of the Witwatersrand.

"The undercurrent here is the profound abhorrence this country has for any bully," said Mr. Stremlau, who said he had been hearing students complain about Mr. Bush's visit ever since it was announced. "There are long and painful memories of where the U.S. was on the struggle against apartheid. South Africans have always been skeptical of American leadership because they have been on the short end of that stick before."

In the 1980's, the United States waffled on imposing penalties on apartheid South Africa and did so in 1986 only after Congress overrode President Ronald Reagan's veto.

Mr. Bush will arrive in South Africa on Tuesday evening after spending the day in Senegal and will hold talks Wednesday with President Thabo Mbeki.

In Echo of Apartheid Fight, Public Pushes S. Africa on AIDS

[FINAL Edition]

The Washington Post - Washington, D.C.

Author:

Michael Grunwald

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Jan 28, 2003

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Nelson Mandela visited an AIDS clinic here last month and declared that South Africa's government was finally getting serious about the epidemic. "They are coming around," said the former president, wearing a T-shirt emblazoned HIV POSITIVE in bold purple letters. In the presence of the hero, a local health official compared the nation's battle against AIDS to its earlier struggle against apartheid: "We are as determined as you were when you said in 1961 that you would not surrender!"

With one in every nine citizens now infected with HIV, the virus that causes AIDS, the outcome of the AIDS crisis could shape South Africa's future as dramatically as apartheid's demise nearly a decade ago. And once again, a reluctant South African government is gradually being pressured into action from below: by advocacy groups, churches, courts, media outlets, unions and businesses, as well as the nation's most respected institution, Mandela himself. Political leaders -- including Mandela's successor, Thabo Mbeki, who in the past had questioned the well-established medical link between HIV and AIDS and suggested that life-saving antiretroviral drugs were part of a genocidal campaign to poison blacks -- have been forced to follow.

"It's obviously happening slower than we'd like, but civil society is forcing the government to act," said Michael Sinclair of the Kaiser Family Foundation, which funds a nationwide HIV prevention program for youth that is the largest in the world. "When you think about it, that's the history of South Africa."

For example, after Mbeki's government refused to pay for antiretrovirals -- first suggesting they were lethal, then too expensive -- AIDS-ravaged firms such as DaimlerChrysler, DeBeers and Anglo American recently began giving them away to employees. The HIV- positive leader of the nonprofit Treatment Action Campaign, Zackie Achmat, has ratcheted up the pressure by refusing to buy antiretrovirals for himself until the government offers them to the poor. And when studies proved that a drug called nevirapine could block the transmission of HIV from mothers to babies, the Treatment Action Campaign filed a lawsuit, and a judge ordered the government to distribute the drug to pregnant women with HIV.

"People are dying," said Brian Brink, the medical director at Anglo American, where one-fourth of the miners are HIV- positive. "Increasingly, you have to say: Why on Earth are we delaying?"

South Africa has more people infected with HIV than any other country, yet its approach to AIDS is still much less aggressive than those of less economically advanced African nations such as Uganda, Senegal and Botswana. Mbeki mentioned the disease only twice -- and only in passing -- during a two-hour state-of-the-union- style address last month. His government has refused to distribute antiretrovirals to AIDS patients in public hospitals, and even blocked the province of KwaZulu-Natal from accepting a \$75 million grant from the United Nations to start distributing the drugs on its own.

Mbeki's party, the African National Congress, was slow to deal with AIDS after the end of white rule in 1994, focusing its energies on economic development and even shutting down clinics that could have helped fight the disease. In many ways, South Africa's medical system still operates in a state of denial.

At Johannesburg Hospital, for instance, there is just one four- hour AIDS clinic a week, with only one salaried doctor, Clive Evian, even though 80 percent of the hospital's patients are HIV-positive. A diabetes clinic is open twice a week.

"Our AIDS patients have a better chance of getting a kidney transplant than they have of getting antiretrovirals," Evian

said. "The government has sent the message that AIDS doesn't matter."

But the government's intransigence has been softened by local and international outrage, and there are signs that it could soften more.

Mbeki's finance minister recently announced that the national AIDS budget would triple, and next month officials expect the government to announce a new AIDS strategy that would include at least one pilot program to distribute antiretrovirals to patients in need. The government has also pledged to work out a deal that would let KwaZulu-Natal accept its U.N. grant and has begun providing emergency anti-AIDS drugs to rape victims in public hospitals. Mbeki's aides have talked about setting national targets for reducing HIV rates and creating national awareness days to promote HIV tests.

A recent survey found that HIV prevalence among pregnant women under age 20 had declined for the third straight year.

"Let us join hands so that we can together build on the progress that has been made in the fight against the epidemic, to intensify the campaign of hope," Mbeki's cabinet said in its most recent statement on HIV/AIDS.

"The president is very serious about this," said Tshepo Mazibuko, a government spokesman.

Still, the overwhelming consensus here is that the changes reveal less about Mbeki than they do about South Africa's vibrant democracy. The media have banged away at Mbeki's health policies, lampooning his health minister as "Dr. No" and "Dr. Do Little." Rival political parties have exploited the issue, and Mbeki has even faced criticism within the ANC. At 84, Mandela, who mostly ignored AIDS during his presidency, has adopted the cause as his final crusade, politely but pointedly rebuking his successor.

There have been countless pressure points: Adam Habib, director of the Center for Civil Society at the University of Natal, notes that there are 100,000 unfettered private organizations in South Africa.

"The government isn't the only source of power around here," he said. "It's a sign of maturity. It means that when the government mucks things up, as it has with AIDS, other sectors can rise to the challenge."

It is a monstrous challenge in a country with about 5 million infected people, and with only about 600 of them receiving free antiretroviral drugs from nonprofit groups. (About 20,000 more pay for antiretrovirals through private insurers.)

More than half the country's free antiretrovirals are distributed here in the gritty township of Khayelitsha, at the Doctors Without Borders clinic that hosted Mandela's visit last month.

The clinic began giving away the "AIDS cocktail" -- three antiretrovirals taken in combination -- in May 2001, and like a much larger antiretroviral program in Botswana, the therapy yielded immediate results.

About 90 percent of the patients have improved dramatically. More than 80 patients would have been expected to die within a year without treatment; only eight did. In just six months, the treatment tripled the average patient's CD4 count, a key indicator of the disease's progress, and produced an average weight gain of nearly 20 pounds. Meanwhile, the cost of the drugs has decreased by about two-thirds, to \$1.55 per patient per day, and the clinic's HIV tests have increased from 500 to 14,000 per year.

"You can see how the patients with drugs are the patients with hope," said Tempisa Nkompela, an HIV counselor at the clinic.

But there is also a five-month waiting list for the therapy at the Doctors Without Borders clinic -- and it would be much longer if everyone who needed antiretrovirals in Khayelitsha were on it.

Valerie Asselman, a doctor at the clinic, does not even tell patients about the drugs until she feels sure they will get them. "I don't want to build up false hopes," she explained. "We just don't have enough for everyone."

This is true throughout southern Africa: About 30 million people are infected with HIV, and less than one-tenth of 1 percent have access to antiretrovirals. Without hope of treatment, people have little incentive to find out their HIV status. So the tragic cycle has continued, with an estimated 1,700 new infections every day in South Africa alone. Stephen Lewis, the U.N. special envoy to Africa for HIV issues, said the worst epidemic in history was leaving him "emotionally unhinged."

"I don't know how you can see what's happening on this continent and not mobilize as if humankind depended on it," Lewis said. Sometimes, he said, he starts to think that South Africa, the economic and intellectual engine of its region, could steer its neighbors toward more progressive AIDS policies. But then his doubts come back: "They're making changes, but much too late, and it's taking much too long."

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November 29, 2001

Power Deal In Pretoria Seems Tilted To the A.N.C.

By RACHEL L. SWARNS

The old enemies exchanged wedding vows with grins and handshakes. Then the two men, one black and one white, toasted their political marriage in a news conference that flashed across the nation's television screens.

Five years after South Africa's government of national unity collapsed in bitterness, the party of liberation and the party of apartheid kissed and made up on Tuesday. The governing African National Congress and its old nemesis, the New National Party, agreed to share power and, they said, to create a nonracial alliance to help heal a polarized nation.

"It provides us with a key to reshaping the political landscape and start breaking down the old racial divisions," said Marthinus van Schalkwyk, the leader of the New National Party, which as the National Party created apartheid. He stood beside Steve Tshwete, the minister of safety and security for the A.N.C.

"We do not want tokenism," said Mr. Tshwete, insisting that the parties would be true partners. "We want something that is real."

But even with all the kisses and congratulations, most people recognized the union for what it was: a marriage of convenience that strengthens the already powerful A.N.C. and may ultimately signal the demise of the New National Party.

Under the agreement, the A.N.C. will regain power in the wealthy Western Cape Province. The province had been run by the two historically white parties, the New National Party and the Democratic Party, which had merged to become the Democratic Alliance.

The Democratic Party had hoped to use the province to upstage the black government by showcasing its own leadership and policies. But the Democratic Alliance collapsed last month, giving the A.N.C. the opportunity to win control of at least half of the provincial cabinet seats in the Western Cape.

The New National Party, which ran South Africa for more than 40 years and was known as the National Party until 1999, will win some seats for its senior politicians in the provincial cabinets

that the A.N.C. controls. There is also talk of a national cabinet post for Mr. van Schalkwyk.

But no one believes that the party will regain the power it had after Nelson Mandela was elected South Africa's first black president in 1994. Mr. Mandela and F.W. de Klerk, then the leader of the National Party, shared power for two years in a government of national unity.

Back then, the National Party held six cabinet positions, including the key posts of finance minister and minister of mines and energy. Mr. de Klerk pulled out of that government in 1996, complaining that his party's influence was declining.

Since then, the party's popularity has plunged. Whites viewed it as too accommodating of black government and were increasingly attracted to the more outspoken and aggressive Democratic Party.

In the last national elections, in 1999, the New National Party won only about 7 percent of the vote, down from 20 percent in 1994, as its core group of supporters, white Afrikaners, jumped ship for the Democratic Party. The Democratic Party won nearly 10 percent of the vote, up from 1.7 percent in 1994. The A.N.C. snared 66 percent of the vote.

Analysts foresee many supporters of the New National Party, who wanted an alternative to the A.N.C., switching to the Democratic Party, with a smaller group going to the ruling party.

Adam Habib, a political analyst at the University of Natal in Durban, said, "To me, the alliance sounds the death knell" of the New National Party. "It's not the place you want to be if you want to be a politician," he said.

Joe Seremane, chairman of the Democratic Party, made an open appeal to the New National Party's supporters to desert. "What the N.N.P. has done can only be described as a monumental betrayal of its mandate and its voters," he said.

The prospect of the partnership has also left some blacks uneasy. The New National Party is considering changing its name to shed the stigma of its apartheid past. But among blacks, who make up 78 percent of the population, the memories of all-white rule still rankle.

So far, the mostly black members of the Congress of South African Trade Unions and the South African Communist Party have given their support to the merger. But on the ground, some blacks are grumbling.

"There will be people within the A.N.C. who will think of it as selling out," said Eddy Maloka, who runs the Africa Institute, a policy institute in Pretoria. "But I don't think it will lead to an uprising in the ranks." Mr. Maloka says most A.N.C. members can see that the New National Party is no threat to the A.N.C. "This is an alliance with a wounded party," he said.

Exhibit B

Lessons for the King of Polokwane

Adam Habib

Now that the dust has settled and Jacob Zuma has been crowned King of Polokwane, the focus needs to shift to the lessons that need to be learnt from Thabo Mbeki's political reign. This is necessary if only to ensure that the ANC and the country do not repeat the tragedies of our recent past. Of course most of the lessons come with hindsight. We could not have predicted all of the outcomes when Mbeki played his hand. But the recent succession campaign and the reaction of ANC members and activists to Mbeki's dismissal of Jacob Zuma as Deputy President in 2005 provide important pointers on lessons to be learnt and actions to be avoided by the new power brokers in the ruling party.

The most obvious lesson to be learnt is that our transition has to become much more inclusive than it has been thus far. The outcome of the succession campaign cannot truly be understood outside the rebellion that occurred within the party and the Tripartite Alliance against the character of our transition. As so many commentators have noted, Jacob Zuma's candidature was cemented not only by his own popularity, but also by the popular revulsion of the Mbeki administration. And this revulsion was in large measure propelled by the belief in important quarters of the ANC and the Tripartite Alliance that the primary beneficiaries of our transition has been big capital and a narrow band of politically connected black entrepreneurs.

As has also been noted before, Mbeki may have been constrained in his economic options in 1994. But the same cannot be said now. The international environment has loosened up considerably and the Washington Consensus has lost its shine. China's and India's competitive engagement in the global economy have created alternative options for developing nations. Our deficit is comparatively low, our interest payments relatively small, and we now have far greater fiscal space to be more magnanimous with the poorer sections of our citizenry. Of course this would entail our political and bureaucratic elite becoming less religious about our economic policies. If there is a lesson to be learnt from China's fantastic growth, then it has to be the value of pragmatism. China would never have become the world's factory if it had not manipulated the market and artificially pegged the won to the dollar.

Already some of the religious fervor around economic policy that prevailed among our economic technocrats in the 1990s has begun to wane. Social expenditure has gone up considerably in recent years. Between eight to ten million people now receive social support grants. Education and health are being prioritized in the budget. No longer is there any discussion about privatization. In fact the same parastatals government wanted to privatize a few years ago are now in the vanguard of a state led investment drive. And the political elite's rhetoric is now refreshingly all about the development state.

But much more needs to happen. The contradictions in our policy ensemble have to be resolved. The dispute between DTI and Treasury has to be resolved in favour of the

former. The Reserve Bank has to be reigned in, and made more economically secular and pragmatic by broadening its mandate to also look after employment. Most of all, our collective focus should shift to addressing the employment crisis. This in essence means an industrialization strategy capable of absorbing large amounts of unskilled and semi-skilled labour.

It would be worth recognising that no amount of training is going to transform citizens deprived of schooling and make of them skilled entrepreneurs successfully competing in the global economy. Given this our economic strategy must be multi-faceted and sequenced. Some of our policies must be directed at the employment of new graduates of the productive sectors of post-apartheid schooling and education. But a significant amount of it should be directed at establishing industrial sectors capable of absorbing the unskilled and semi-skilled unemployed who were laid off in the first decade of our transition. And then gradually, once the employment situation is stabilized, businesses and entrepreneurs should be prompted to progress up the value chain.

But economic strategy is not the only lesson to be learnt. Just as importantly are the many lessons in political management that can be learnt from Mbeki's decade and a half at the helm of South Africa's political system. The most important of these is that the President must be seen to empathise with the lives of his citizenry. He must in particular identify with the fears and hopes of the people he rules. This was perhaps one of Mbeki's greatest weaknesses. Whether it was on crime or on the crisis in the public health system, Mbeki never had the humility to acknowledge that there was a problem. The result was that even when the state intervened as best as was possible under the circumstances, the Mbeki administration was perceived as callous and flippant about the concerns and needs of ordinary citizens.

A related lesson is that the ruling political elite must have confidence in and draw their affirmation from fellow South Africans. It is truly ironical that a President so concerned with addressing the historical deficits of apartheid and colonialism, and as sensitive as Mbeki is to the implicit racism that prevails in our world, would nevertheless be so obsessed with being given a pat on the back by foreign institutions and leaders. This has manifested itself in so many ways. The investment council, comprising overwhelmingly foreign CEOs and entrepreneurs, has had much greater access to the President than did his fellow COSATU comrades in the Tripartite Alliance. Similarly, when Treasury and the Presidency felt the need to undertake an assessment of economic policy, they gave the full contract to Harvard University's Centre for International Development. I know of no government in the North, or even in the up and coming South, that would so disempower its own academy as to give a group of foreign academics the sole responsibility of reviewing and recommending its policy agenda. Similarly ask any South African journalist, and they will tell you that it is much easier for their counterparts in foreign media houses to get interviews with Mbeki, his Ministers and senior state technocrats. This behaviour of prioritizing the foreign over the domestic demoralizes and sometimes even infuriates domestic stakeholders, alienating them from the ruling political elite. The new powers brokers in the ruling party, then, would do well to have a degree of

confidence in and seek affirmation from their own institutions and fellow citizens, while still retaining a cosmopolitan orientation.

Finally, our President must be seen to respect the boundary between party and state and must not be perceived to be manipulating state institutions to deal with political competitors. Moreover, he must be seen to deploy laws and regulations consistently. Mbeki will not be known for having respected either convention. He has always been accused both within and outside the party for using state institutions against potential and real foes. The alleged coup plot in which Cyril Ramaphosa, Tokyo Sexwale and Matthew Phosa were accused, the Hefer Commission that investigated the spy allegations against Bulelani Ngcuka, the NPA's allegations and charging of Jacob Zuma and the recent suspension of Vusi Pikoli are all seen as forming a general pattern of behaviour in which state institutions are used and manipulated to deal with intra-party competitors. And of course Mbeki's differential treatment of Tshabalala-Msimang and Madlala-Routledge, Jacob Zuma and Jackie Selebi, suggests to many that the rule of law was applied only when it suited his political agenda. If there is a lesson that Jacob Zuma should learn from Thabo Mbeki, it should be this: never let comradely loyalty trump integrity in your political decisions, for sooner or later you will have to take responsibility and pay the costs for such choices.

Will Jacob Zuma heed these lessons? I cannot say. Perhaps the political euphoria of the moment makes him feel invincible and blinds him to his personal vulnerabilities. But he will do well to remember that the political public is a fickle partner. When ignored and not nurtured, when taken for granted and not wooed, her passion can transform into a vengeful scorn that blights even the most promising of political careers. Just ask Mbeki: this is perhaps that greatest lesson that the philosopher king can impart to the new king of Polokwane.

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The Times

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'Philosopher President' revealed as no more than a vindictive politico

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The chattering classes turned against Mbeki — and left him vulnerable to his many political victims — when he was seen to betray their fond vision of a caring and socially responsive society, writes Adam Habib

The provincial nominations for the president of the ANC represented a trouncing of Thabo Mbeki. Not only did he get four nominations to Jacob Zuma's five, but the margin of victory in Mbeki's provinces was far smaller than that in Zuma's strongholds. Add to this the embarrassment of the sitting president of the ANC getting only nine votes in KwaZulu-Natal, and losing the nomination of the ANC Women's League — traditionally a mainstay of support for Mbeki's presidential candidacy — and you have to conclude that the provincial nominations represent a motion of no confidence in the Mbeki administration.

How did this come to be? Even if this represents a rebellion within the ranks of the ANC, the scale of the defeat suggests that a significant proportion of Mbeki's support base abandoned him.

Despite what the spin doctors actually say, Mbeki's support base (as distinct from the ANC's) has never been the poor and marginalised. That has been the preserve of the Zuma camp. As Mark Gevisser convincingly argues, Mbeki's support base has always been the intelligentsia, and the urban middle and upper middle classes, both black and white. They, especially the black component, constitute a significant proportion of the activist and leadership base of the ANC.

It is this group that has abandoned Mbeki, not only in the ANC, but also more broadly in society. Go to any of the parties frequented by young black professionals in our urban centres, and the same message is heard: "Mbeki has betrayed everything we stood for." This is also the message reflected in opinion polls, which record a downward spiral in the President's popular support base.

What has happened in this constituency? For years these people were the support base of the Mbeki administration. Even when they disagreed with one or other Mbeki policy, he was still their philosopher president.

They were proud of the fact that he could walk in London and New York and hold his own with foreign politicians. He represented African modernity: proud of his roots, but cosmopolitan in orientation, a national politician and a global statesman, pursuing a liberal economic agenda, with a socially responsive, progressive political rhetoric. He represented an African version of the global middle-class dream.

Why, then, did they abandon him?

The simplest answer is that in recent years, his practice and behaviour has betrayed their hopes



Go to any party of young black professionals in our urban centres, and the same message is heard: "Mbeki has betrayed all that we stood for" ■

and vision. For them, South Africa was to be a caring, modern, cosmopolitan social democracy. Of course this vision was a shallow one, for the only people who could afford to even harbour it were the middle and upper middle classes of our society. For the vast majority of the poor, there was nothing caring or social about our democracy. Nevertheless, despite the shallowness of this dream, it did galvanise the imagination of the privileged or at least the relatively privileged, who became the mainstay of Mbeki's support base.

Three developments punctured this vision.

First, in the past two to three years, there has been a growing perception in the society that Mbeki is incapable of empathising with ordinary citizens. The two most dramatic examples of this have been the crises in health and crime.

When scandals broke about the quality of care in Mount Frere Hospital and, more recently, the deaths of babies in Prince Mashini, the Mbeki administration's immediate response was a cover-up. People who broke the story and leaders who rose to the challenge were reprimanded, harassed and even fired. Witch hunts became the order of the day, and the political leadership, led by the President and Minister of Health Manto Tshabalala-Msimang, went into denial. The Deputy Minister of Health, Nozizwe Madlala-Routledge, rose to the challenge — and was reprimanded, then fired.

Instead of empathising with the victims of health service delivery failure, and the mothers who lost their children, Mbeki and Tshabalala-Msimang buried their heads in the sand, denying anything was wrong in the public health system.

Similarly, when confronted with a question on crime in an interview on the SABC a couple of months ago, his remarks were that the problem was being seriously overplayed. He said that one could walk in Auckland Park without the fear of being mugged and attacked.

Not only did this betray ignorance about the conditions in Auckland Park and much of the rest of the country, it downplayed the seriousness of the problem of violent crime. Instead of rising to the challenge and sympathising with the victims of murder, rape and robbery, Mbeki refused to understand the fears of his citizenry, instead accusing them of being active or unwitting agents in the pursuance of an agenda of racial bigotry.

Again, not only was there no empathy for victims, but the immediate response was to deny the social reality. This behaviour signalled a leader incapable of empathy and seriously out of touch with his citizenry.

Secondly, there is a growing perception that state institutions are being manipulated for personal political gain. This has been the charge that Zuma has levelled against Mbeki for some time; Cosatu, the Communist Party and Zuma have argued that the National Prosecuting Authority and other state institutions have been deployed against Mbeki's political opponents.

Initially this was treated, at least in the public domain, with a degree of popular skepticism. But Mbeki's behaviour, and that of those around him, increasingly suggested that the charge may not be completely unfounded. The processes involved in the appointment of the SABC board, for instance, violated legitimate democratic protocols; it was revealed that MPs were instructed to appoint individuals decided on by Luthuli House.

Similarly, the suspension of NPA head Vusi Pikoli created political waves because it was seen as a means to protect national police Commissioner Jackie Selebi. These were seen as examples where the President manipulated decision making in state institutions to serve his own political ends.

Finally, there is a widespread perception that Mbeki's Machiavellian behaviour, reflected in his defence of those close to him while dealing severely with opponents, is increasingly out of step with democratic norms.

Again, there has been dramatic evidence of this in recent months. Mbeki dismissed Zuma, but refused to do so in the case of Selebi, even though the allegation against the latter was as serious as that levelled against the former.

Similarly, he went out of his way to defend an incompetent Health minister who has brought the party and country into disrepute, while firing a popular deputy minister who defended the interests of HIV/Aids victims and the poor and marginalised.

These incidents give credence to the charge in Cosatu and the SACP — and even from many in the ANC — that the President is inconsistent in his application of the rules, and uses his position to undermine the political contestation that should be the everyday stuff of democratic politics.

Ultimately, these developments exposed the fallacy of the vision of "the caring and socially responsive democratic society" that the middle and upper middle classes have harboured in this transition.

Feeling betrayed, they have turned against Mbeki. He is now seen as an autocrat, not the democrat they supported. He is seen as a manipulator, not the politically astute entrepreneur they endorsed. He is seen as one who turns against those closest to him, not the resolute politician who stands up against the forces of populism.

The popular image of Mbeki at the end of 2007 is one of a vindictive politician. He is seen as the cause of his own misfortunes.

As these social strata turned against him, they left him vulnerable to the growing list of political victims that Mbeki accumulated in his rise to power. This is the great success of Jacob Zuma: the unravelling of the support for Thabo Mbeki among the middle and upper middle classes of South African society.

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Time to rethink affirmative action

Adam Habib: POLOKWANE BRIEFING

28 October 2007 11:59



South Africa confronts a central political dilemma: how to advance redress to deal with historical injustice while simultaneously building a single national cosmopolitan identity. This is the defining element of the national question.

Attempts were made to grapple with this issue at the ANC's national general council meeting in 2005 and the party's policy conference last year, but the outcomes were unsatisfactory on both occasions. The forthcoming conference at Polokwane gives the ruling party another opportunity to tackle the issue – and it should, because the national question is one of the great dilemmas of our time. It lies at the heart of much of our contemporary debate, including affirmative action, economic policy and skills shortages.

Of all the approaches that have been advanced to address this political dilemma, the most cynical is the colour-blind perspective, which suggests that South Africa has realised an equality of opportunity, and government should not be involved in initiatives that recognise racial differences among citizens. Advocates of this view are hostile to affirmative action and redress, and assume that an equal playing field already exists.

But there is ample evidence to suggest the contrary. Indeed, the discrimination suffered by black people in the past crucially influences their life chances in the present. As a result, not only is there a moral but also a pragmatic and instrumental rationale for affirmative action. Without redress, inequalities will continue to replicate in a racial form, forever holding South Africa hostage to polarised politics of fractiousness and ethnic mobilisation.

What is the solution? Perhaps the best place to start is by focusing on the conceptual foundation of the formal affirmative action programme. This perspective recognises that, though apartheid discriminated differentially on a racial basis, women and citizens with disabilities were also disadvantaged. Affirmative action therefore includes among its beneficiaries Africans, coloureds, Indians, women and citizens with disabilities. But it is on the racial aspects of this redress where the greatest demographic advancement has been made.

The existing affirmative action programme has been subjected to withering criticism from a variety of quarters, including from voices within the ruling party and its alliance partners Cosatu and the SACP. Its current implementation is seen to have three limitations.

First, the redress strategy has implicitly assumed an equal playing field within the black population, which is simply not the case. Inequality among blacks has been rising for nearly two decades. The net effect is that more well-off sections of the black population monopolise the benefits of redress initiatives.

Second, the implementation of redress has in some cases compromised service delivery to the poorest and most marginalised. Note that I have qualified this

statement by using the term "implementation", because the legislation on redress is clear that, in the event of "equity" candidates not being found for positions in the public service, it is illegal to deny these to other citizens. Yet anyone familiar with the public service will know that this has become a widespread practice.

Moreover, a range of news reports suggest that positions in the public service are not being filled even though competent white candidates are available. This is because key performance indicators in the public service are determined in quantitative statistical terms without serious assessment of the availability of equity candidates on the market. Managers in the public service are conditioned not to fill positions rather than compromise diversity proportions. The result is that in sector after sector, service delivery is severely compromised with the consequences played out in the poorest communities.

Finally, the implementation of redress has had the unintended effect of heightening racial consciousness and alienating a section of the population. However unfair certain business people, politicians and public officials may deem this to be, the alienation has to be addressed openly, if only because the Constitution commits the nation to the development of a national cosmopolitan identity, and mandates the state to act in ways that facilitate this outcome. A redress mechanism must be developed that can simultaneously tackle historical injustices while enabling the development of a South African identity.

This would need to be established with criteria that do not reinforce society's historical divisions and are compatible with a cross section of citizens' views about what constitutes "fair" and "just". Redress built on such shared principles is necessary so that bonds of social solidarity can be fostered throughout the population.

The most obvious way to do this is to use class as the defining criteria by which to advance redress. This idea is supported by the DA, which conceives of a charity-oriented intervention directed at alleviating poverty. This, however, would not transform the structural features that tend to reproduce racial inequality. Some progressive intellectuals also recommend a class-based affirmative action because they see it as more effective in achieving the Constitution's desired ends.

Yet the class-based affirmative action strategy has two significant weaknesses. First, it implicitly assumes that economic empowerment is the only element required in the affirmation of historically oppressed communities. But is not psychological liberation as essential as economic empowerment? Second, however well implemented, class-based affirmative action will simply not deracialise particular sectors of society.

For example, the deracialisation of corporate ownership will not automatically result from class-based redress. Given the racial profile of poverty, it could deracialise the lower echelons of the class hierarchy, but one cannot assume that it will automatically do so for the upper echelons of the corporate structure. And deracialising this upper echelon of the class hierarchy is as important a moral and strategic imperative as is eroding the correlation between race and poverty.

This suggests that no redress programme founded on a single defining criteria, whether race or class, is likely to succeed in realising all of our constitutional obligations.

South Africa requires an initiative constructed on more nuanced terms, incorporating race and class. This could take two forms, one of which is already under consideration in official circles and being partially implemented. This is a programme with a race-based redress agenda that is heavily qualified by material criteria. An example is the broad-based BEE programme. Under pressure from the ANC branches and the party's alliance partners, the government has been compelled to broaden the benefits of its racially based economic empowerment agenda. Take, for

example, the recent sale of MTN shares to black citizens, where a maximum of R50 000 worth of shares could be bought by any one individual. Similarly, the recently announced Sasol black empowerment deal is skewed in favour of its employees. In both cases there is an attempt to broaden the benefits of the economic empowerment to lower-middle and working-class individuals.

An alternative could be a class-based redress agenda supplemented by more specific race-based initiatives. This would primarily be to the benefit of South Africa's poor, who are almost entirely black. In effect, the programme would have the twin effects of deracialising and eroding poverty.

Where objectives such as the deracialisation of corporate ownership are unlikely to be affected by this programme, specific race-based initiatives could be implemented. There is already an example of this in the sector charters, which allocate targets for black ownership, management, skills development and so on. The lever encouraging companies to implement these charters is continued eligibility for government business, procurement and licences for the mining of the nation's national resources. The benefit of this comprehensive redress agenda is the ability to focus limited state resources on poor and marginalised communities, while using government's regulatory powers to condition the private sector to use its resources to deracialise the market economy.

I favour a nuanced, class-defined redress programme, supplemented by race-based initiatives, rather than the race-based programme qualified by class criteria that is now under consideration and partly being implemented. Both could have similar deracialisation, empowerment and poverty alleviation effects. The latter initiative, however, is more vulnerable to reinforcing racial identities, which would be an obstacle to building a non-racial society. The former would help to realise the twin objectives of the Constitution: to effect redress for those who have been historically disadvantaged, while simultaneously building a cosmopolitan, non-racial nation.

Adam Habib is deputy vice-chancellor for research, innovation and advancement at the University of Johannesburg. This article is based on an HSRC study on redress and citizenship in South Africa co-edited by Habib and Kristina Bentley

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Palestine a fork in the road for SA

Adam Habib

THE emergence of two blocs, a Hamas bloc centred in Gaza, and a Fatah alternative in the West Bank, each claiming to be the authentic Palestinian state presents SA with a foreign policy dilemma. Which should it recognise? The belief that SA helped thwart US attempts to get the United Nations (UN) to recognise the Abbas government led Democratic Alliance foreign policy spokesman Tony Leon to accuse the South African government of being out of step with the international community, supporting a terrorist movement, and undermining the country's international reputation and national interest. Is he correct, and what should SA's position be? It would be useful to address these questions by first describing the dilemma confronting SA and the international community.



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The basic law through which the Palestinian State was born and which frames its legitimacy and operations did not make any provision for the current response of President Mahmoud Abbas. While it allows him to appoint and dismiss a prime minister, it does not allow him to appoint a new government. His decision to do so and appoint the Fayyad government is at best illegal, and at worst an attempt by foreign powers to establish a puppet regime.

The decision of the US, western Europe and Israel to recognise the Abbas government does not legalise it. Indeed, there is significant evidence to suggest that the US and Israel in particular had been instrumental in arranging this outcome.

For some time, the US has had a strategy, under the leadership of Elliot Abrams, deputy national security advisor for the Middle East in the White House, to foment a Palestinian civil war, and establish a compliant regime. Weapons have been funnelled to Fatah elements. Simultaneously, an aid embargo by the US and Europe and the illegal blockades and withholding of Palestinian taxes by the Israeli government crippled the Hamas regime. The effect was the civil war of the last few months and the expulsion of Fatah from Gaza, and Hamas from the West Bank.

Should we be surprised? Not at all. The Americans and Europeans have had a time-honoured strategy where regimes led by compliant natives are established in problematic and strategically important areas of the world. If possible, this is done through democratic means. When democratic processes result in restless natives being elected, these governments are undermined, coups are arranged, and natives compliant to the west are installed. This is what is at play in Palestine.

Who, then, should SA support? Given SA's constitution, the government should be cautious of uncritically supporting culturally and religiously chauvinist forms of political rule. Yet it must be recognised that the Palestinian people elected Hamas in a free and fair election. The rest of the world might not like this outcome, but it has no right to undermine this democratic process. Given this and our constitution, South Africans should not allow themselves to become complicit in blatant attempts to replace restless natives with compliant ones, even if these are more

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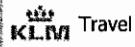
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ideologically palatable.

There are three options available to SA. The first is to follow the Europeans who, in the interest of re-establishing the Atlantic Alliance, have followed a "Blair strategy", played ball with the US, recognised the Fatah government in the West Bank, and effectively became complicit in a neoconservative strategy.

But this would mean supporting an illegal act, and becoming compliant in an attempt by a foreign power to thwart democratic processes to establish a compliant regime.

The second option is to respect political principle and recognise the Hamas government as the legitimately elected government of the Palestinian people. But it assumes that Hamas has not been complicit in the breakdown of political relations in Palestine, which is not the case. Moreover, principled political decision-making is only possible if the international environment is amenable to it. With the US, European Union and Israel having recognised Abbas and actively undermining Hamas, and with alternative support from Russia and China by no means guaranteed, SA's recognition would merely marginalise it from the power brokers in the international community.

The answer lies in recognising neither the Fayyad nor the Haniyeh factions. Informal relations should be maintained with both, the intention of which should be mediating and bridging the divide. Such a strategy, which is consistent with the Mecca agreement that resulted in the Government of National Unity, would proceed from the recognition that it is in the interests of the Palestinian people to have a united government. The problem is that so long as neoconservatives in the US are intent on fomenting divisions among the Palestinians, no mediation is possible.

The overriding concern for supporters of the Palestinian cause should then be how to neutralise the American and Israeli governments and their allies. This would require the building of a powerful alternative coalition that would support the abandoning of the Quartet initiative, and the hosting of mediation talks between Fatah and Hamas under the direct supervision of the Arab League and the UN. The UN and the alternative multilateral coalition must also undertake to monitor US and Israeli compliance with the UN initiative, and prevent further subversive activities directed to fomenting divisions among the Palestinians.

It means that SA's diplomats should be in Moscow and Beijing, Addis Ababa, Sao Paulo and New Delhi, explaining this position, and why constraining neoconservative behaviour is in the interest of all countries and regions.

This strategy is almost certain to be the most difficult of the options, but it is more compliant with the constitution and is in SA's long-term interest. It should be remembered that slowly but surely alternative powers are emerging in the world. Such a multipolar world is in SA's developmental and political interest. Having an independent foreign policy, not tied to either the Americans or any other power, gives us the best ability to maximise advantages for the development of both SA and Africa. It will also allow us to play the role of bridge-builder between the developed and developing world.

SA's decision on Palestine must not be a myopic one. It must ensure the country retains its legitimacy as an independent but pragmatic player, committed to political principle, yet aware that this has to be advanced in a world where powerful players are prepared to subvert this goal.

SA's diplomatic goal should be to actively build coalitions to advance politically principled foreign policy decisions. Ultimately, it should be about subverting the agendas of the powerful and advancing the interests of those who cannot be

heard.

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Posted to the web on: 26 June 2007

Scramble for an African response

Adam Habib

A NEW scramble for Africa is under way. After decades of neglect, the continent and its riches are once again being sought by the outside world. Almost all of the world's major economic actors have a presence on the continent. Yet it is two of them — the US and China — whose footprints could leave the most-lasting legacy. And this legacy is unlikely to be positive.



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The US's recent engagements in Africa suggest it has developed a new sense of urgency about the continent. Driven by its need to diversify its sources of energy away from the Middle East, and constrained by the Chavez factor in Latin America, the US has begun to cast a longing eye at Africa's oil. Moreover, concerned about Africa becoming a haven and a breeding ground for terrorists, it has recast the gaze of its "war on terror" on parts of the continent. This mix of concerns has led to three innovations in its engagements with Africa. First, the US has identified four anchor states — Egypt, Ethiopia, Nigeria and SA — to work with in stabilising the continent. Second, it has established a new military command, Africom, to take direct responsibility for US interests in Africa. Finally, it has established a whole new set of bilateral deals with oil-rich regimes, many of whom have questionable democratic and developmental credentials.

China has also begun to play the field in Africa. Driven by its own energy demands, it has established multiple bilateral relations with oil- and mineral-rich states. Offering a mix of loans on generous terms, debt forgiveness, and assistance with infrastructure development, and also playing on the fact that its assistance does not come with political conditionality, China has made significant political and economic inroads. This is likely to continue given the Chinese state's control over billions of surplus dollars, its command over the investment decisions of Chinese firms, and its consolidation of political relations with almost all African countries.

Two growing foreign footprints are thus becoming evident on the continent. And they have generated two distinct responses. On the one hand, there is a group of researchers, business men and politicians, who advocate SA throwing its lot in with the US and the western camp. Warning of the autocratic nature of the Chinese regime, its relations with unsavoury leaders on the continent, and the capacity for corruption to flourish, they argue that partnerships with the US are likely to have the most positive democratic and developmental effects. On the other hand, there are many on the left, and even some businessmen savouring the prospect of making enormous profits from an engagement with the booming Asian economy, who recommend a partnership with China on the grounds of realpolitik and realeconomik, and/or the fact that its development represents an alternative path that holds promise for Africa.

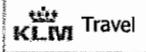
Both these responses are surely flawed. The advocates of the "western partnership" too easily gloss over the hypocrisy of the US and the European Union, which also have relationships with their own favourite autocrats, and whose engagement with Africa has been just as corruption-inducing as the

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Chinese.

But western hypocrisy should not lead us to be blind to the problems of the Chinese expansion. The Chinese approach, which is founded on two principles — bilateral engagements organised through political elites, and ignoring the domestic record of governments — could have adverse consequences for democracy and development if only because so many of the regimes they engage are authoritarian and unresponsive to the concerns of the African citizenry.

Ultimately, it would be prudent for advocates of African development to recognise that both countries are on the continent to advance their own national interest, and harbouring illusions to the contrary will result only in future disappointment.

Moreover, such advocates should recognise that there is a great danger looming from this new scramble for Africa's resources. The last time such a scramble took place, during the Cold War, the consequences were devastating. Both foreign powers, the US and Soviet Union, established client regimes, funded rebel armies, and engaged in proxy wars. The result was a continent wracked by civil wars, displacements of citizens, and cross-border refugee flows. How to avoid a repeat should be the overriding concern of Africa's political elite.

There are some who would dismiss this potential continental threat. Yet these same individuals would be hard-pressed to explain current developments in Sudan and Somalia without reference to the roles of the US and China. In the Sudan, we have an autocratic regime supported by China, with rebel armies both in the south and in Darfur receiving military and other aid covertly from the US and its allies. Similarly, the Ethiopians did not suddenly wake up and decide to invade their Somali neighbours. They were encouraged and provided with support to do so by the US, in particular. The intention: to stabilise the Horn and strengthen US interests in the region. Sudan and Somalia, then, represent the first proxy wars of the new scramble for Africa.

What then can be done? A collective African response can be the only solution. What form would it take? Some would argue for a pan-African solution in the form of a United States of Africa. But while such a development would be positive, it is not feasible in the short to medium term.

What about the possibility of a continental charter of rights governing investments and engagements on the continent? Such a charter, which would have to be negotiated in the African Union (AU), could supersede bilateral agreements and force all external powers to accord to a specific set of practices. Of course, the administrative weaknesses and the capacity constraints of the AU may hinder compliance,

But if such a charter were to be agreed to by the AU, it could be subsequently ratified in the United Nations, thereby strengthening its institutionalisation and enhancing the reach of its compliance.

Is this likely? Probably not, given the divisions within the AU. But there is an urgent need to try to develop a continental African response. The failure to develop one would have serious consequences for Africa and undermine all of the significant achievements of the past decade. Given this, should this not be the principal focus of SA in the AU summit starting later this month? Should we not use this opportunity to focus African minds in a realistic attempt to develop a collective African response to a developing continental threat?

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12 January 2007

Reffing and revving

By ADAM HABIB

The controversy of the past week over Tokyo Sexwale's candidature for the presidency of the ANC signals that the succession issue will remain the overriding political concern in SA for 2007. But what kind of president does SA need?

Some have suggested that current political problems emanate from the fact that Thabo Mbeki is aloof, and therefore a more "people-orientated" president is required. Others have suggested that, given developmental and service delivery priorities, it may be prudent to have a president who is administratively focused and managerially efficient. Still others have betrayed their class predispositions, urban sensibilities, even their colonial mind-sets, by intimating that the president must be distinguished, sophisticated and intellectually orientated so he or she can interact with global counterparts on an equal footing.

These reflections tend to suffer from one essential weakness, namely the assumption that "good presidents" display certain personality traits. Yet any cursory review of the great leaders of the past century would more than adequately demonstrate that they were a diverse lot. Moreover, it is important to note that successful statecraft is not simply a product of a single individual, however important he or she may be. Rather, it is the outcome of structural processes and the behaviour of a collective leadership.

Who the president is still has important consequences for the future of the nation. But that has less to do with particular personality traits and much more to do with whether the particular individual can undertake two essential responsibilities.

First, such an individual must have the ability to heal the ruling party,

which over the past year has become mired in division and leadership paralysis. I have on previous occasions argued that leadership contests and the uncertainty they breed among political elites are good for development and public accountability. But this requires that such contestation be organised through the mechanisms of viable opposition parties and a plural civil society. In 2006, protagonists overstepped these boundaries with suspensions and expulsions being organised against individuals for merely voicing alternative views. So it is necessary for a future president of the ANC to have sufficient legitimacy among all quarters, and the ability to rein in all sides so that a policy contest is allowed to occur within the framework of democratic norms and procedures.

Second, and perhaps even more important, is that the next president must have the ability to conceptualise and manage a political project of development in a world hostile to such an outcome. This would involve in particular the ability to avoid the twin pitfalls of simply appeasing or being hostile to powerful stakeholders in the national and global order. It needs a political leadership capable of harnessing the resources of powerful stakeholders like the business community towards a broad-based development agenda that empowers the vast majority of the citizenry. This requires that the leadership go beyond ideological orthodoxies of either the left- or right-wing variety, think outside the box, and condition domestic and foreign business to look beyond short-term profit and act in a way that promotes sustainable long-term development.

Whether potential candidates can undertake these responsibilities should be the debate on succession. Instead, there is a fruitless debate on positive or negative personality traits. Perhaps such a debate may even compel prospective candidates to speak to strategic perspectives and policy agendas, which is truly the stuff that could make an impact on our collective future.

Habib is an executive director at the Human Sciences Research Council. He writes in his personal capacity

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Sunday Times, 6 August 2006

In search of our humanity

The voice of the poor, so long ignored, is being heard again, writes Adam Habib

"Our public discourse today is skewed very much to reflect the values and interests of the rich"

PRESIDENT Thabo Mbeki's keynote address would have warmed the cockles of many a social democrat's heart. Peppered with quotations from religious texts, English literature and even Marxist treatises, it was an intellectually robust speech that condemned what we as a society have become.

Railing against the ethos of "accumulation for accumulation's sake", and the frankly greedy behaviour that afflicts South Africa's privileged classes, both black and white, he suggested that the selfishness erodes the collective spirit, the ubuntu, of our nation.

Mbeki concluded with a clarion call to return to the selfless spirit of the liberation struggle.

The fact that such a strong message was needed is not in doubt. And there could have been no better person to deliver it than the President himself. We as a nation have forgotten our underclasses. They are not a priority in our national policy agenda. Indeed, some of our policies actively harm this social group.

The state's administrative failures deny them what little rights they do have. And its personnel, both black and white, treat them with contempt and little respect. We mouth platitudes about the need to support the poor, but we actively rebel against this when it comes to support for a progressive tax system and a socially responsive spending agenda.

How has such selfishness come to define our privileged classes? The answer lies in the political and socioeconomic system which we in part inherited, and in part established. Mbeki touched on the former. But he remained silent on the latter, namely the post-apartheid regime's complicity in continuing and even reinforcing the socioeconomic system we inherited.

Jeremy Seing and Nicoli Nattrass make this very point in *Race, Class and Inequality in South Africa*, where they argue there is a large degree of continuity between the distributional regimes of the late-apartheid and post-apartheid eras.

Translated, this simply means that policy continuities — mainly in the economic and labour-market arenas — between the late apartheid and democratic governments, have advantaged the privileged classes and reinforced the marginalisation of the very poor.

There was an attempt to deracialise the system through a redress policy — affirmative action and black economic empowerment — but, by focusing only on race and not on material circumstances, the socioeconomic divide was simply reinforced.

The net effect: a deracialisation of the apex of the class structure, while leaving the systemic and racialised inequalities intact.

Our public discourse today is skewed very much to reflect the values and interests of the rich. Economists, business leaders and public officials speak only of growth, but never of its social purpose: enhanced livelihoods. The behavioural consequences that Mbeki bemoaned are in part a product of policies and actions his government has presided over.

Yet there is hope. Mbeki's remarks are a reflection of a re-thinking under way among senior political elites and government officials.

State expenditure, much of it directed to the very poor, has been on the rise. Privatisation has been put on the back burner, and state-owned enterprises are now being used to advance development. The demand for black economic empowerment is increasingly being qualified with the prefix "broad-based", and there are more vocal calls to rein in excesses of corruption and conflicts of interest in the public and private sectors.

No longer are public officials easily resorting to market fundamentalism, but rather there is a growing realisation of the importance of empowering the poor and developing a national cohesiveness.

In part, this is a product of the realisation by state elites that business did not deliver either on its promises nor on the hopes that the former may have harboured of the latter.

It may also be a product of a growing confidence by state elites, especially in a new international climate.

But the overriding factor has to be that the voice of the poor is increasingly being heard, not in the ways we might prefer, but rather on the streets, in the very branches of the ANC and in its alliance partners, and most definitely in the social movements that have re-emerged in the last few years.

These voices have created a level of anxiety among the political and economic elite, which is the essential political condition for human-oriented social and economic policies.

Habib is the executive director of the Democracy and Governance Programme of the Human Sciences Research Council. He writes in his personal capacity

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April 4, 2004

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HEADLINE: Do the people have power yet?

BYLINE: Adam Habib

BODY:

argues that a lack of uncertainty in South Africa's political system is hampering poverty alleviation

We cannot use apartheid as the yardstick by which to judge our progress. After all, did we not describe apartheid as a crime against humanity?'

THE South African government is generally commended for doing fairly well. Its performance is seen as phenomenal given the past history of apartheid. But is this fair judgment?

The ANC government has since 1994 passed a significant amount of legislation that is progressive and assists in addressing the inequities of our past. Couple these with our Constitution, and one has to conclude that today South Africa is a far better place than it has ever been.

But we cannot use apartheid as the yardstick by which to judge our progress. After all, did we not describe apartheid as a crime against humanity? How, then, can we use it as a reference point for our own transformation? Should not our aspirations in the Freedom Charter, the Azanian Manifesto, the 10 Point programme, be used as a reference map to assess our political and socio-economic progress?

When we use these collective aspirations as our political compass, then we have to recognise that at the heart of the government's policy initiative stands a macro-economic policy that has been seriously deficient.

The Growth, Employment and Redistribution strategy (Gear) has not only had negative consequences for the poor in South Africa; it has also compromised the outcomes of a raft of other progressive legislation.

The government is correct to note that it has built 1.6 million houses, supplied water to nine million people and sanitation to 6.4 million, and created two million jobs. But it does not inform us about those disconnected from water and telephones, and left jobless.

In a book I co-edited with John Daniel and Roger Southall, *State of the Nation: South Africa 2003-2004*, we concluded that the combination of progressive policy in some arenas and a conservative macroeconomic programme has led to the deracialisation of the apex of the class structure.

Professionals and entrepreneurs of all racial groups have particularly benefited, but poor and marginalised people are struggling. President Thabo Mbeki has often spoken of two nations and two economies in South Africa, and the need to transcend this dichotomy.

But our conclusion was that the policies of his government will not lead to that. Instead, they will lead to the deracialisation of the first nation, while leaving the second exactly where it is marginalised, poor and overwhelmingly black.

This is borne out by the figures. The Taylor Commission into maintenance laws estimated that the country's poverty rate stood at a staggering 45% to 55%. Statistics South Africa estimates the unemployment rate to be at 40%, and

all independent studies suggest that while the inequality level between white and black is decreasing, inequalities are increasing within the African population and the country as a whole.

These statistics are horrifying. If they had occurred in any country of the industrialised world, a state of economic emergency would already have been declared and governments would have fallen.

So why did the government adopt such a conservative macroeconomic stance? There are two explanations. The first, preferred paradoxically by the left and right, focuses on state elites.

For the left, state elites have sold out. For the right, they have begun to see sense. The problem with these explanations, however, is that they do not understand that individuals are constrained in their choices by their institutional locations and the prevailing balance of power.

The second explanation, and the one I prefer, suggests that the balance of power was unfavourable to poor and marginalised citizens, and as a result it made sense for state elites to make the choices they did.

Effectively this explanation suggests that Mbeki and other members of state elites confronted two diametrically opposed sets of interests advocating competing policy sets.

The first foreign investors and the domestic business community advocated neo-liberal economic policies such as privatisation, deregulation, tariff reductions and low fiscal deficits. Their leverage is investment.

The second the broader citizenry demanded poverty alleviation, service delivery and transformation. Their leverage is the vote.

The latter, however, was compromised given the racial structure of party formation and the lack of a viable opposition. In this context, foreign investment served as a more real lever with the result that Mbeki made policy concessions to the investor community, which reflected itself in the adoption of Gear.

The point to note is that power configurations lay behind the state's adoption of Gear. This should not have been surprising. After all, indications were there that this was going to happen at least since the early 1990s.

For a while in 1993 and 1994, it seemed as if Keynesian arguments had won the day. But this was largely as a result of the demands imposed by a looming election, and was abandoned in some areas within a couple of months, and more comprehensively within two years.

So where do we stand today? Academics and political activists have argued that the government's economic stance has begun to change in the past three years. They point to the rise in social expenditure and increasingly progressive noises made by the President.

They also note the developments in Cancun, and South Africa's role in the outcome. They point to the President's remarks regarding the necessity of linking with social movements outside these forums, and they contrast this with Trade and Industry Minister Alec Erwin's statements after the Seattle protests, which exhibited a disdain for civil society activists outside the formal negotiations.

So is there change? The left in the ANC definitely believe so. They suggest that the government is reappraising its position. It recognises that its gamble has not paid off. Therefore there has been a significant shift in the spending priorities of the last Budget in favour of infrastructural investment, a public works programme and increased social expenditure.

Other activists and commentators, however, are more cynical about these developments. They suggest that this is an election year, and that state elites have always started making progressive noises just before the elections.

My own view is somewhere between these positions. I believe the government is in reappraisal mode, but that there is a contradiction in its policy ensemble. Social expenditure is rising, but so long as our trade, monetary and fiscal policies are what they are, they will continue to work against the social expenditure component.

Think about it for a moment. The US and Europe are societies that are more developed and do not confront the development and poverty challenges we do. Yet they have higher deficits than we do. The US Federal Reserve has as its explicit mandate employment creation.

Our Reserve Bank has only inflation reduction. Yet the US and Europe have less than a 5% unemployment rate, while we have a 40% unemployment rate. There is a contradiction at the heart of our policy programme and this will not be sustainably resolved so long as the political environment does not change.

How can it change? Let me answer the question by reflecting on why democracies are seen as the best political system to achieve a human-centred development programme. The reason is that uncertainty is enshrined at the heart of the political system not an uncertainty about the rules of the game, but an uncertainty about whether state elites will be returned to office. This substantive uncertainty is the mechanism that ensures accountability of state elites to the citizenry.

But in the third wave of democracies, and South Africa is no exception to this, we have democratic institutions, elections, separation of powers, a Bill of Rights; yet substantive uncertainty is still missing. The system does not generate the outcome it is meant to facilitate. In South Africa's case, the reason is the nature of the party structure.

Political elites, both state and opposition, are racially located and this results in the absence of a viable opposition. The urgent political task is thus to reintroduce substantive uncertainty into the political system. This will allow the vote to be enhanced as a mechanism of leverage.

It will not resolve the problem, but it will complicate Mbeki's life. Every time he is confronted with competing interests, he will be forced to make concessions both ways, to the citizenry as much as to the business community.

This conception of our strategic imperatives goes against the grain of dominant thinking among progressives. They argue that South Africa is at a very delicate stage. It is thus important to maximise progressive forces against counter-revolutionaries. The strategic aim, they maintain, is to establish predictability. But predictability reinforces existing power relations that fostered the shift to the right in macroeconomic policy in the first place.

We need substantive uncertainty. This is why I support the establishment of a viable opposition, the break-up of the tripartite alliance, the abandonment of corporatist institutions, the emergence of social movements and electoral reform. All of this will facilitate uncertainty, which is necessary for loosening up the existing configuration of power in our society.

It is immaterial whether you agree with a particular social movement or a political party. What is important is that their viable presence has the systemic effect of creating uncertainty, which is necessary to make state elites accountable to the citizenry.

Unfortunately, this is not what progressive activists want to hear, at least not in an election year. But so long as we postpone the realisation of substantive uncertainty, we will postpone the goals of development, poverty alleviation and egalitarianism.

Habib is executive director of the democracy and governance unit at the Human Sciences Research Council of South Africa

A VICTORY FOR SOME: Habib believes that although professionals and entrepreneurs of all races have benefited from the democratic dispensation, poor and marginalised people are still struggling Picture: JACKIE CLAUSEN

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HEADLINE: A RACIAL CENSUS BY DEFAULT

BYLINE: Adam Habib and Sanusha Naidu

BODY:

A RACIAL CENSUS BY DEFAULT

Opposition parties are so constrained by race that they're unable to appeal to voters in terms of policy and principle
Habib and Naidu are researchers with the Human Sciences Research Council

SA's third democratic election is less than four weeks away. Yet the outcome seems a foregone conclusion, with the ANC already crowned the victor. As in 1999, this election seems to be more of a contest between the smaller parties vying for the position of official opposition, and for control of the provincial governments in KwaZulu Natal and the Western Cape. In all three contests, party alliances seem to have become the norm - informed by a belief that voters form rigid racial blocs.

This view is shared by many analysts and the media who have interpreted SA's electoral outcome as a racial census, with blacks voting for "black parties" and whites for "white parties". South Africans are seen to vote not on the basis of their interests and opinions, but rather through the prism of ethnic and racial loyalties.

Such a view tends to oversimplify the correlation between race and voting patterns.

Could it not be class or an intricate mix of race and class that informs voting patterns?

There is empirical evidence to support this view, mainly from opinion surveys conducted before the 1994 and 1999 elections. Idasa's 1998 Public Opinion Service Report suggested the electorate might not be as rigid and stagnant as is assumed. Arguing that the mainstream assumption "is partly based on the fact that most surveys only focus on voting intentions", the report distinguished between this and partisan identification, and investigated both in three surveys conducted in 1994, 1995, and 1997, which it continued in series of opinion polls for the 1999 general elections.

The surveys' overall results indicated that the proportion of the electorate that strongly identified with a party fell from 88% in 1994 to 43% in October/November 1998, and then climbed to 55% in April 1999. The number of independents increased from 12% in 1994 to 58% in 1998, then fell back to 45% in 1999.

As of April 1999, 35% of African voters, 76% of white voters, 63% of coloured voters and 83% of Indian voters saw themselves as independents. These figures were markedly down on six months earlier, particularly with African voters, 50% of whom saw themselves as independent.

What is the significance of the discrepancies between the electorate's partisan identifications and voting intentions? The drop in partisan identification with the ANC and NNP between 1994 and 1999 suggests their electoral support is not as rigidly defined as was assumed.

Support for the ANC among Africans declined from 75% in 1994 to 45% in 1998, then climbed to 58% by April 1999. NNP support among whites decreased even more dramatically, from 48% in 1994 to 5% in April 1999.

The largest shift in both groups was towards the independent category - 35% of Africans and 76% of whites. This, with the drop in voting intentions for the ANC between 1994 and 1999, suggests that though the electorate might identify less with the ANC, it sees no serious alternative.

The Idasa report concludes that the stability in voting intentions is likely to continue in the short term, but the increase in the numbers of "leaners" and "independents" creates the potential for future electoral shifts.

So a significant proportion of the electorate is uncomfortable with all political parties, and in particular the formal opposition.

There are two reasons for this. First, the main opposition parties, because of their historical legacy and electoral strategies, are seen as articulating the interests of particular race and ethnic groups.

The IFP, for instance, has projected itself as the defender and representative of the Zulu people. The NNP and the DA have developed electoral strategies and programmes that targeted whites, coloureds and Indians.

Second, the opposition parties do not offer policies that attract a significant electoral constituency. Their policy choices appeal only to sections of the white, coloured and Indian communities, especially the working classes who, because of their material vulnerability, can be manipulated by the race card.

As we approach the 2004 elections, the racial census argument has come to the fore once again. But there is nothing to lead us to the belief that the electorate is any less sophisticated now than it was five years ago. The result then: overwhelming victory for the ANC.

Is that a good thing? Not necessarily. But the failure of formal opposition and the consequences thereof, should not be laid at the door of the electorate, but, rather, at the door of opposition political elites, who have become so constrained by race that they are incapable of playing the electoral game as it should be: on the basis of policies and principles.

LOAD-DATE: April 5, 2004

90 of 100 DOCUMENTS

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Sunday Times (South Africa)

September 28, 2003

SECTION: Social Issues; Pg. 20

LENGTH: 706 words

HEADLINE: Race policies will haunt black elite

BYLINE: ADAM HABIB

BODY:

Race policies will haunt black elite

I AM an upper middle-class South African, probably of Indian descent. I say probably, because I don't really know.

Yet I'm often categorised as Indian and when I protest, especially when my views are attributed to the pigmentation of my skin, I get the distinct feeling that I am not taken seriously. In most people's eyes I remain "Indian" and that is what defines me.

I am not an isolated case. When colleague Jonathan Jansen, the dean of the faculty of education at the University of Pretoria, recently appeared on a radio talk show, the hostile responses by the audience, who thought he was a white Afrikaner, only changed when informed that he was black.

How can an anti-racist struggle with a nonracial goal culminate in this? Why is race and ethnicity more politicised and race relations more tense in 2003 than in 1994? I believe two factors, one direct and the other indirect, account for the racial tensions.

The post-apartheid government's transformation agenda, encapsulated in its programmes and policies, is largely based on race. Transformation, in all sectors, from education and health to the economy, is defined in racial terms.

Black people, defined in the legislation as African, coloured and Indian, are affirmed and given preference with regard to access to infrastructure and resources.

Black pigmentation has become a valuable commodity. In sector after sector, the advancement of black interests has become the primary aim of transformative legislation. The negative side is that the benefits of this redress policy have been monopolised by a small elite minority within the black population.

In the new ideology, socially constructed racial identities constitute the cultural blocs of society. But it is a dangerous phenomenon that will come to haunt this elite. It legitimises playing the ethnic card when it suits them and will inevitably lead to a fractured and politically divided society.

The second factor contributing to the current politicising of race is our macro-economic policy. The fundamental compromise of our transition was not, as many believe, in the political sphere, but in the economic.

Confronted by the overwhelming power of corporate capital, largely the result of global developments, the political elites in our society struck a deal to abide not only by a market economy, but also by neoclassical economic prescriptions reflected by the Gear policy.

The reward for policy compliance was capital's acceptance of black economic empowerment. In the initial years, foreign and domestic businesses were merely encouraged to take on both black managers and partners. In subsequent years, the government made it mandatory for companies receiving state contracts or competing for tenders to have black partners or enter into consortiums with black companies.

And now the government has established black ownership targets for the mining industry, and more are to follow for other sectors of the economy.

But it "deracialised" the tip of the class structure, while leaving the rest largely untransformed. The result is a polarisation of the social and political environment. A shrinking economic pie means access to a job is a life-and-death matter, effectively pitting the poor of all racial groups against each other.

Where do we go from here? Clearly, abandoning the redress project is not an option as the state has an obligation to address the disparities of the past.

One option is to pursue a redress policy structured along class lines. South Africa's class structure is largely racially defined. An overlap between race and class categories would allow for a situation where a redress strategy with class objectives at its core would remedy historically racial disparities.

However, this alone could not counter the racial polarisation of our society. One would expect that a class-structured redress project would be coupled with an alternative social democratic macroeconomic strategy.

* Professor Habib is a director of the Centre for Civil Society and research professor in the School of Development Studies, University of Natal

LOAD-DATE: October 2, 2003

Exhibit C

Africa's hegemon

Apr 6th 2006

From The Economist print edition

Thabo Mbeki's many foreign-policy successes, and his one big failure

PA



Mbeki says nothing, Mugabe hears nothing

Get article background

IN FOREIGN policy, Mr Mbeki has managed to develop a vision of post-colonial Africa with an energy and effectiveness that has often eluded him at home. His admirers like to call him a foreign-policy president; his political opponents jibe that he spends more time abroad than he does in South Africa.

The transformation in the country's relationship with the rest of the world since 1990 has been remarkable. South Africa has moved from being an international pariah under apartheid, boycotted and cut off, to become one of the most engaged, open and connected countries in the world. The most obvious and pleasurable sign of this for sports-mad South Africans has been the ceaseless flow of world sporting events that their country has hosted since 1994, including rugby and cricket world cups, with the football equivalent to come in 2010.

A lot of this re-engagement was inevitable, given that South Africa remained, even through the worst of the apartheid years, Africa's leading economy. But Mr Mbeki has added his own distinctive twist to this natural resurgence with a foreign policy based on African solutions to African problems. It is likely to prove his most important legacy.

Adam Habib, a professor of politics at the Human Sciences Research Council in Pretoria, describes Mr Mbeki as the "quintessential African nationalist". This is his main intellectual and emotional inheritance from the liberation struggle, and has driven his desire to emancipate his own country, and hence Africa as a whole, from racial oppression and colonialism. His principal aim has thus been to establish the new South Africa as, first and foremost, a black African country—rather than, as Peter Kagwanja of the International Crisis Group puts it, "a white, exceptional country". Mr Mbeki's other ambition has been to persuade Africa to set up its own institutions and mechanisms for solving its problems, thus ending the constant, humiliating requests for aid to the West's former colonial powers.

Mr Mbeki has led South African interventions all over the continent to prove his country's African-ness and show its commitment to the continent's problems. In Burundi, Mr Mbeki's government followed up on Mr Mandela's earlier work to get all the parties to the negotiating table to end a civil war. In the

Democratic Republic of Congo, one of the continent's most war-ravaged states, South Africa has been heavily engaged in the complex negotiations that produced a successful referendum on a new constitution last year. South Africa has also played a part in ending conflicts in Sudan and Liberia. Mr Mbeki was less successful in his personal efforts to mediate in Côte d'Ivoire, but that is probably the continent's most intractable conflict now. South Africa has also sent thousands of troops as peacekeepers and observers to these countries once the fighting was over.

However, Mr Mbeki has been at his most creative in trying to set up permanent institutions to serve Africa. The New Partnership for Africa's Development (Nepad) was very much his own idea, launched in 2001. Headquartered in South Africa, Nepad is designed to make African countries themselves responsible for upholding standards of democracy and good governance through the African Peer Review Mechanism. Mr Mbeki also played an important part in turning the old, useless Organisation of African Unity into the new African Union (AU), under whose auspices South Africa now hosts the new Pan-African Parliament; and he is also involved in the new African Commission on Human and Peoples' Rights.

Africa-pessimists are quick to belittle all this pan-African institution-building, and it is easy to point to the failures. The AU's only military force to be deployed has been so ineffectual in the Darfur region of Sudan that it might yet be replaced by a UN force. So far, only four countries have submitted themselves to the Nepad peer-review procedure, and none of the country reports has been made public.



But there have been successes too. The AU acted quickly in Togo last year to reverse a coup; and in January this year South Africa led successful diplomatic efforts to stop Sudan getting the chairmanship of the AU, in protest against the Sudanese government's policies in Darfur. The African Commission on Human and Peoples' Rights, meanwhile, has issued a report saying that the Zimbabwean government should be investigated for gross human-rights abuses.

But South Africa is not just being altruistic: its involvement in the rest of the continent is closely bound up with its own economic prospects. As Aziz Pahad, the country's deputy foreign minister, argues, "We cannot sustain our economic growth if Africa continues in poverty, so it is in our own self-interest. You can't have development without conflict resolution."

It is no coincidence that South African investment in other African countries has boomed in the past few years, reflecting the country's deepening political and diplomatic engagement beyond its borders. Companies such as MTN and Vodacom, two mobile-phone operators, Protea, a hotel chain, and Standard and Absa, two banks, have all successfully expanded into other African countries recently. MTN's chief executive, Phuthuma Nhleko, says the South African government "is seen as a constructive force for good on the continent, and that has helped South African business a great deal."

But for all the work that it does in its continent, South Africa is almost paranoically careful not to throw its economic and diplomatic weight around or to act out of step with its African partners. It is often jokingly tagged as the "America of Africa" by other Africans, and takes the dig seriously. It knows that there is a lot of resentment of its size, its relative success and, still, its whiteness.

Moreover, other countries, such as Nigeria, Kenya, Egypt and Ethiopia, like to think that they have claims to leadership too. South Africa has been cautious about pushing for an African seat (or two) on the UN's Security Council, despite its obvious qualifications. In the eyes of the rest of the world, a South Africa personified by Mr Mandela may have a claim to moral leadership. But within Africa, South Africa was the last former colony to claim its freedom, and knows its place in the continental pecking order.

Inaudible diplomacy

All these sensitivities collide with each other on the subject of Zimbabwe. Here, Mr Mbeki's Africanist credentials trump his NePAD ambitions that African countries should help each other uphold standards of good governance, human rights and democracy, none of which Robert Mugabe, Zimbabwe's president, seems to care much about. For blacks throughout Africa Mr Mugabe remains a revered icon of the liberation struggle, the man who helped to fund the ANC in exile, and South Africa will not break with the general African consensus on this.

Behind the scenes, there is Mr Mbeki's "quiet diplomacy", a campaign to persuade the opposing sides in Zimbabwe to accept the sort of compromises and reconciliations that worked in South Africa. But so far, Mr Mugabe has shown no signs of listening. Indeed, it looks as if South Africa has already exhausted the means of quiet diplomacy, yet Mr Mbeki proudly refuses to say anything louder. By any standard, Zimbabwe has been Mr Mbeki's biggest foreign-policy failure.

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Exhibit D

washingtonpost.com

Prominent S. African Denied Entry Into U.S.

By Craig Timberg
 Washington Post Foreign Service
 Thursday, October 26, 2006; A20

JOHANNESBURG, Oct. 25 -- A prominent South African political analyst said Wednesday that U.S. border agents had denied him entry into the United States and questioned him about his views on terrorism.

Adam Habib, executive director of the Democracy and Governance Research Program for South Africa's Human Sciences Research Council, was taken to a holding room at John F. Kennedy International Airport on Saturday after his arrival for meetings in New York and Washington, he said in an interview.

Seven hours later, his visa had been canceled and he was escorted by an armed guard to a return flight to Johannesburg.

Habib said the border agents did not give him a reason. A U.S. Embassy spokesman, Mark M. Schlachter, confirmed the incident but said he did not know why Habib had been denied entry.

Habib, who is Muslim, said that most of the dozens of people in the holding room had dark skin and appeared to be Muslim, by virtue of their language or dress. He added that U.S. security measures, though in some cases justified by the Sept. 11, 2001, terrorist attacks, threaten to create resentment among Muslims worldwide.

"If you do this in a way that alienates large portions of the world and creates enmity, then you are compromising your medium-term security in pursuing your short-term security," Habib said from his office in Pretoria.

Habib said that most of the questions seemed routine, though they included some about his views on terrorism. The rest of the South African delegation continued to a series of meetings with the World Bank, the National Institutes of Health, the Bill and Melinda Gates Foundation and other groups.

The Human Sciences Research Council has asked the U.S. Embassy in Pretoria to investigate, and Habib said he had written the U.S. Customs and Border Protection office in Washington seeking an explanation.

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World Digest

Muslim analyst from South Africa not allowed in U.S.

A prominent South African political analyst said Wednesday that border agents had denied him entry into the United States and questioned him about his views on terrorism.

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Habib said the border agents did not give him a reason. A U.S. Embassy spokesman confirmed the incident but said he did not know why Habib, who is Muslim, was denied entry.

The rest of the South African delegation continued on to a series of meetings with the World Bank, the National Institutes of Health, the Bill & Melinda Gates Foundation and other groups.

Santiago, Chile

Pinochet reportedly hid \$160 million

Former Chilean dictator Augusto Pinochet may have stashed millions of dollars in gold in a Hong Kong bank, the government said Wednesday. Newspapers put the total at some \$160 million, but a lawyer and spokesman for Pinochet denied it.

The government of President Michelle Bachelet, who was tortured at a detention center during Pinochet's 1973-1990 dictatorship, said it was investigating the reports.

Berlin

Israeli jets accused of firing near ship

The German Defense Ministry said Wednesday it is investigating an incident in which two Israeli fighter jets allegedly fired shots and dropped flares near a German warship patrolling the Lebanese coast as part of a peacekeeping force.

German officials said the planes fired two shots and released the flares, which can be used as a defense measure against heat-seeking missiles, a ministry spokesman said. He did not identify the vessel.

Israeli officials deny the jets fired shots at the German ship.

INTERNATIONAL
Herald Tribune

South African anti-corruption campaigner refused entry at JFK

The Associated Press

WEDNESDAY, OCTOBER 25, 2006

CAPE TOWN, South Africa One of South Africa's most respected anti-corruption campaigners and political analysts said Tuesday that U.S. authorities deported him under armed escort over the weekend after he arrived in New York for a series of meetings with organizations including the World Bank.

Adam Habib, executive director of the government-funded Human Science Research Council's program on democracy and governance, said he was held for several hours after he arrived early Saturday and then was questioned about possible links to terror organizations.

He said he then was informed his visa had been revoked and was escorted to a Johannesburg-bound plane under armed escort. No explanation was given.

"I am completely puzzled," said Habib, who is well known in South Africa as an outspoken political commentator who frequently denounces intolerance and terrorism. He also was an anti-apartheid campaigner before white rule was toppled with all-race elections in 1994.

The research council sent a letter to the U.S. embassy in Pretoria asking for an explanation and asked the South African foreign ministry to intervene.

"We want to know what's up," Habib told The Associated Press.

Spokeswomen for U.S. Customs and Border Protection in New York and Washington, D.C., confirmed that Habib had been refused entry to the United States after arriving at John F. Kennedy International Airport. The U.S. Department of State acknowledged that it had revoked Habib's visa but declined to say why.

Habib, a fairly regular traveler to the United States, was part of a delegation on a tour to meet organizations including the National Institutes for Health, the Centers for Disease Control and Prevention, the World Bank, Columbia University and the Gates Foundation. The Human Sciences Research Council conducts research into development, poverty alleviation and good governance.

Habib said he had never previously had problems when visiting the United States.

He said he had agreed to a voluntary interview — "because I have nothing to hide" — to answer questions about whether he belonged to or gave funding to any organization deemed terrorist by the U.S. government.

"Then immediately they said I am being deported, and I was sent with armed escorts to the plane," said Habib, an author and college professor of Indian descent who joined the council in 2004.

The rest of the delegation continued with its schedule, he said.

IHT

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SA scholar Habib speaks out after US deportation

October 24, 2006, 17:15

Adam Habib, a South African scholar, has given details of his questioning by American officials before he was deported home from New York last weekend.

Habib who is a respected political commentator was about to visit the US with other members of the Human Sciences Research Council (HSRC).

Habib says he was asked whether he knew any terrorists and whether he belonged to any terror organisations. He was also asked whether he had ever been detained, and confirmed he had been detained under the apartheid government.

Habib adds that he was informed some time later that his visa had been revoked. He was then escorted to a plane bound for South Africa with two armed escorts. He says that he is still waiting for formal feedback on the matter from the US embassy in Pretoria.

Why are people being deported?

Habib says the American government should explain why people are being deported. "Today I was informed that on Thursday last week there was a Muslim theologian who had been deported again from the US, so it does seem as if its a broader problem than simply Adam Habib, and if it is this, clearly we need to understand what is going on, why are people being deported, what are the reasons because that's important to address," he says.

Habib says if people's rights are being abrogated, there is a serious question that needs to be addressed by the American government itself.

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Exhibit E

Unfriendly America

The deportation from the United States of Prof Adam Habib was heavy-handed and would surely have embarrassed the American government.

Condemnation that has ensued will hopefully prompt it to review its border control measures, otherwise the US risks being found guilty in the court of world opinion of discriminating against Muslims.

Habib was denied entry into the US while his Human Sciences Research Council colleagues were waved through by customs officials who were deaf to his requests for an explanation and his protests. They would not hear that he was with a delegation in the US to meet institutions including the World Bank. He was detained for hours at the airport before being marched back under armed guard to an aircraft .

In the light of 9/11, stringent US border controls are necessary. What is disturbing, though, is that so-called "random selection" at points of entry is, more often than not, no such thing. Profiling is at work here, be it on the basis of race, religion or physical appearance.

The US prides itself on its human rights culture. Caution is understandable, but expelling respected figures like Habib tells of a country that has sadly deviated from its own cherished values.

Published on the web by Sunday Tribune on October 29, 2006.

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Dispatch

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The deportation of Professor Adam Habib, a leading South African political analyst and prominent Muslim, from the United States is fuel for outrage.

Yesterday we reported how Habib, executive director of the Human Sciences Research Council's Democracy and Governance Research Programme and a person regarded as one of the most influential opinion-makers in South Africa, was interrogated for seven hours at New York's John F Kennedy International Airport before being kicked out of the country.

No reasons have been given to him, although by his account of the affair, it would appear he was suspected of "terrorism".

This loaded word appears these days to be in American English, simply a synonym for "Muslim". And that alone would appear to be enough to merit refusing a person entry to the United States.

"You can't just deny someone access to a country and not give them any reasons why. It's like you accuse someone, but you don't tell them what for," Habib said.

Habib has become a victim of Washington's increasingly deranged "war on terror" which has isolated moderate sympathisers and which appears to have bred more enemies than it has conquered.

Bush and his loony cohorts' obsession with defeating this illusive enemy has led the United States to surrender its reputation as the world's greatest democracy. Its treatment of Professor Habib underlines its transition to a paranoid plutocracy.

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Its interrogation of its visitors is more a "no entry" sign than a welcome mat to the poor and oppressed.

This sentiment scoffs at the Statue of Liberty's symbol as a global billboard whose message welcomes the world's unwanted to its shores.

It is sad that a newspaper which once championed the democratic principles of an earlier struggle finds cause to criticise the values of our friends across the Atlantic.

Foreign Affairs in Pretoria have been informed of the Habib incident and we hope that at the least they will demand an explanation from the United States authorities.

But it will be difficult to justify such treatment of an eminent South African citizen and Pretoria would be correct to issue a demarche, a sign of severe diplomatic censure.

The German philosopher Friedrich Nietzsche reminds us of the danger that lies in the path that the US has chosen.

"He who fights with monsters," he warned, "might take care lest he thereby become a monster. And if you gaze for long into an abyss, the abyss gazes also into you."

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Top Stories

Posted to the web on: 27 October 2006

Pahad concerned by US expulsions

Wyndham Hartley

Parliamentary Editor



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CAPE TOWN — Amid what is seen as a growing trend of South Africans being deported from the US, the foreign affairs department has demanded an explanation for the recent deportation of academic Adam Habib.

Deputy Foreign Minister Aziz Pahad told a media briefing yesterday that there was "a worrying trend" developing as increasing numbers of South Africans were being deported from the US and other European countries without reason.

He said Habib, a senior member of the Human Sciences Research Council (HSRC), had the appropriate visa to visit the US but was refused entry.

His visa was revoked and he was escorted back to an aircraft by armed guards.

He was part of an official HSRC delegation visiting the US for meetings with institutions such as the National Institute of Health, the Centres for Disease Control and the World Bank.

In a strongly worded response, Pahad said the situation was "unacceptable", despite suggestions that Habib might have been deported by mistake. "We can't deal with mistakes," he said.

He called on the US to pay attention to its list of people not allowed to visit the US and not to make mistakes.

On Wednesday, the US embassy in Pretoria said it was looking into reasons behind the academic's deportation.

Mark Schlachter, spokesman for the embassy, said they were taking up the matter with US customs, but would not discuss the matter publicly.

"The reason for his deportation would be available to him [Habib]," Schlachter said.

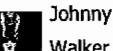
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Exhibit G



Human Sciences Research Council
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Read vir Geesteswetenskaplike Navorsing
Umkhandlu Wezokucwaninga Ngesayensi Yesintu
Ibhunga Lophando Ngenzulu-Lwezi Kamtu

Democracy and Governance

2006-10-25

U.S. Customs and Border Protection
Freedom of Information Act/
Customer Satisfaction Unit
Room 5.5 C1300 Pennsylvania Avenue, N.W.
Washington D.C. 20229
USA

Sir/Madam

Re: Reasons for Revoking my VISA on my Arrival in New York

On Friday, 20 October 2006 I left South Africa on an SAA flight for business in the United States. As Executive Director of Democracy & Governance, I was meant to be part of a Human Science Research Council delegation to the US, where we were to meet a number of institutions including the National Institute of Health, the Centre for Disease Control, the World Bank, Columbia University, and a number of donors including the Carnegie and Gates Foundations. On arrival in New York on Saturday morning, I was whisked away to the waiting hall of your Homeland Security where I spent some seven hours. At the end of the day, I was informed that a Tony Edson, Deputy Assistant Secretary of State for Visa services had revoked my VISA. I was then put back on a plane to South Africa on Saturday evening.

Your officers at the Homeland Security in New York were in no position to inform me as to the reasons for any of this. They in fact provided me with this address and asked that I direct all enquiries to this office.

I must say I was taken aback at this treatment. Not only have I studied in the US, but I have also traveled there regularly over the last ten years, including a number of times after September 11. On no occasion had I confronted any problems. In addition, I regularly receive delegations in my office from your embassy in Pretoria. So given this pattern of engagement, I was indeed puzzled at the revoking of my visa and my subsequent deportation.

A colleague in South Africa's Washington embassy indicated that it may have to do with the fact that I was detained as a political prisoner under the apartheid regime. Apparently, this problem has surfaced with a number of South African citizens. But if this were the case, why had I not experienced this problem before. Another colleague suggested that it may have to do with my carrying two passports. The first contained my US visa but its pages were entirely full, so I brought along my new passport. Your official in New York, however, said that this should not have constituted a problem. Also, we checked with your local embassy about this prior to my departure, and they confirmed that it was perfectly acceptable to travel with the visa in an older passport. So I really am at a loss as to the decision of your official, Tony Edson.

Pretoria Office
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Tel: +27 12 302 2804 Fax: +27 12 302 2801

Cape Town Office
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Durban Office
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Private Bag X07, Dalbridge, 4014, South Africa. Tel: +27 31 242 5400 Fax: +27 31 242 5401



Human Sciences Research Council
Lekgotla la Dinyakisoisa tsa Semahlale tsa Setho
Raad vir Geesteswetenskaplike Navorsing
Umkhundlu WazolokwanaNinga Ngescayensi Yesintu
Ibhunga Lophando Ngenzulu-Lwazi Kantu

Democracy and Governance

There is a slight urgency in resolving this issue. A couple of weeks ago, I accepted an invitation to speak at the Conference of the American Sociological Association in New York in the middle of 2007. If I am likely to be denied a visa and entry into the US, then it is important that I inform them as soon as possible so that they can find alternative speakers.

I would therefore appreciate a speedy response to my enquiry.

Yours faithfully

Professor Adam Habib
Executive Director: Democracy & Governance

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Exhibit H

16 January 2007

Secretary of State
Dr Condoleezza Rice
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Dr Rice

Re: Revoking of VISA and Subsequent Deportation

Kindly find attached a letter from the U.S. Customs and Border Protection (CBP) regarding my deportation from the United States on 21 October 2006. The letter indicates that my deportation is not the responsibility of CBP, but rather the Department of State who have placed a record against my name. I hereby request information as to the nature of the record against me, and its current status.

Please note that the incident occurred on Friday, 20 October 2006, when I left South Africa on an SAA flight for business in the United States. As Executive Director of Democracy & Governance, I was meant to be part of a Human Science Research Council delegation to the US, where we were to meet a number of institutions including the National Institute of Health, the Centre for Disease Control, the World Bank, Columbia University, and a number of donors including the Carnegie and Gates Foundations. On arrival in New York on Saturday morning, I was whisked away to the waiting hall of your Homeland Security where I spent some seven hours. At the end of the day, I was informed that a Tony Edson, Deputy Assistant Secretary of State for Visa services had revoked my VISA. I was then put back on a plane to South Africa on Saturday evening.

Your officers at the Homeland Security in New York were in no position to inform me as to the reasons for any of this. They in fact provided me with the address of the U.S Customs and Border Protection to whom I had originally directed my enquiries.

I must say I was taken aback at this treatment. Not only have I studied in the US, but I have also traveled there regularly over the last ten years, including a number of times after September 11. On no occasion had I confronted any problems. In addition, I regularly receive delegations in my office from your embassy in Pretoria. So given this pattern of engagement, I was indeed puzzled at the revoking of my visa and my subsequent deportation.

A colleague in South Africa's Washington embassy indicated that it may have to do with the fact that I was detained as a political prisoner under the apartheid regime. Apparently, this problem has surfaced with a number of South African citizens. But if this were the case, why had I not experienced this problem before. Another colleague suggested that it may have to do with my carrying two passports. The first contained my US visa but its pages were entirely full, so I brought along my new passport. Your official in New York, however, said that this should not have constituted a problem. Also, we checked with your local embassy about this prior to my departure, and they

confirmed that it was perfectly acceptable to travel with the visa in an older passport. So I really am at a loss as to the decision of your official, Tony Edson.

There is a slight urgency in resolving this issue. A couple of weeks ago, I accepted an invitation to speak at the Conference of the American Sociological Association in New York in the middle of 2007. If I am likely to be denied a visa and entry into the US, then it is important that I inform them as soon as possible so that they can find alternative speakers.

I would therefore appreciate a speedy response to my enquiry.

Yours faithfully

Professor Adam Habib
Executive Director: Democracy & Governance

CC: Dr Olive Shisana, President Human Science Research Council
Mr Aziz Pahad, Deputy Minister, Department of Foreign Affairs
Ambassador E.M. Bost, US Ambassador to South Africa

Exhibit I

U.S. Department of Homeland Security
Washington, DC 20229



U.S. Customs and
Border Protection

DIS-2-OFO:FP NM
2007F0157

November 7, 2006

Mr. Adam Habib
134 Pretorius Street
Pretoria 0002 Private bag X41
South Africa

Dear Mr. Habib:

This is in response to your request made under the Freedom of Information Act (FOIA). Based on the information you provided (name only) a search of the U.S. Customs and Border Protection (CBP) database produced no records responsive to your request.

The U.S. Department of Homeland Security is responsible for the approval of all immigrant and nonimmigrant petitions, the authorization of permission to work in the U.S., the issuance of extensions of stay, and change or adjustment of an applicant's status while the applicant is in the U.S. Questions about these matters should be referred to the U.S. Customs and Immigration Service.

We recommend you contact the Department of State, with questions about U.S. visas, including application, the status of visa processing, and for inquiries relating to visa denial. Visa Services, Public Inquiries can usually explain what aspects of immigration law and regulation are applicable in certain cases, and can also check the current status of a particular case, if processing has been delayed.

You may address question by email to the Visa Office for general information, write at usvisa@state.gov. To reach the National Visa Center (immigrant visa inquiries) call: 603-334-0700 or email: NVCINQUIRY@state.gov.

Should you have further questions related to this request please refer to FOIA file number 2007F0157 on future correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Cleatus P. Hunt".

Cleatus P. Hunt
Acting Director, Field Programs
Office of Field Operations

Exhibit J

17 January 2007

Secretary of State
Dr Condoleezza Rice
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Dr Rice

Re: Revoking of the Visas of my Family, Fatima Habib, Irfan Habib (11), Zidaan Habib (7)

Following the dispatch of my letter of 16 January 2007, my wife, Fatima Habib was called by your official, John Webster of the US Consulate in Johannesburg informing her that her visa and that of my children Irfan Habib and Zidaan Habib had been revoked. He indicated that she was entitled to apply again, but that no guarantees could be given, and that the application would probably take time since the visas would have to be processed in Washington. As you can imagine I was taken aback by this decision, not only because my wife, Fatima had been allowed in the U.S in October 2006, at the time of my deportation, but also that action is now being directed against my children who are still minors.

Up until this point I still harbored the hope that my deportation may have been the result of a mistake or misunderstanding. However, the fact that my family's visas were formally revoked two or three months after my deportation suggests that this action is much more organized and coherent. I must say that I think it is outrageous and ethically questionable for punitive action to be directed against my family by your department. It is especially problematic because I, as yet, have no idea what has occasioned such decisions and behavior on your department's part.

I once again urge you to please provide me with information as to why your department has placed a record against me, what is its status, and whether similar records have been placed against members of my immediate family. Moreover, I would like to formally know whether I, and my family, have been officially barred from entrance into the United States.

As you can imagine, this is a matter that perturbs me somewhat. I would therefore appreciate a response as soon as your diary permits.

Yours Faithfully

Professor Adam Habib

CC: Dr Olive Tisane, President Human Science Research Council
Mr. Aziz Pahad, Deputy Minister, Department of Foreign Affairs

Ambassador E.M. Bost, US Ambassador to South Africa
Mr A.J. Groenewald, Political Secretary, Embassy of South Africa,
Washington DC

Exhibit K



DEPARTMENT OF STATE
ASSISTANT SECRETARY FOR CONSULAR AFFAIRS
WASHINGTON

URGENT
PAC/DO/10

February 22, 2007

Dear Professor Habib:

On behalf of Secretary of State Condoleezza Rice, I am replying to your letters of January 17, regarding the denial of your entry into the United States on October 21, 2006 and the revocation of your U.S. visa and those of your family.

You were denied entry to the United States because your visa had been prudentially revoked under section 222(i) of the U.S. Immigration and Nationality Act as a result of information the United States Government received, indicating you may not be eligible for the visa. We try to inform individuals whose visas have been prudentially revoked so they will not travel while issues concerning their eligibility remain open. I regret that this did not happen in your case.

Please understand that a prudential revocation is not a final determination of inadmissibility. Under U.S. law, you may apply for another visa at your convenience. At that time, the U.S. Government will thoroughly review the case; no decision will be made until that review is complete. The Department of State administers the visa program in strict accordance with the U.S. Immigration and Nationality Act and associated regulations. We are fundamentally committed to the policy of "secure borders, open doors," by maintaining the integrity and security of our borders, while facilitating legitimate travel to the United States by international visitors. Should you decide to reapply for a visa, your application will receive every consideration under U.S. law and regulation.

Regarding the prudential revocation of the visas of your wife and children, U.S. immigration statutes provide for a finding of ineligibility in some circumstances for the family members of another individual deemed ineligible for visa issuance. Should your wife and children apply for new visas, we will be happy to review their applications at that time.

Professor Adam Habib, Executive Director,
Democracy & Governance,
134 Pretorius Street,
Pretoria 0002, South Africa.

I hope this information is helpful to you in understanding better the background of your unfortunate experience last October. Again, I want to assure you that the prudential revocations of your visa and those of your family were executed in strict compliance with U.S. law, and any reapplication for U.S. visas will receive every consideration under U.S. law and regulation.

Sincerely,



Maura Harty

Exhibit L

41 of 100 DOCUMENTS

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SHOW: Morning Edition 10:00 AM EST

January 31, 2007 Wednesday

LENGTH: 685 words

HEADLINE: South Africa, U.S. Dispute Al-Qaida Allegations

ANCHORS: STEVE INSKEEP, RENEE MONTAGNE

BODY:

STEVE INSKEEP, host:

What is it? Wednesday morning? Wednesday morning. It's MORNING EDITION from NPR News. Good morning. I'm Steve Inskeep.

RENEE MONTAGNE, host:

And I'm Renee Montagne. Yes, it is Wednesday morning.

The United States has placed two South African men on its list of al-Qaida suspects and wants the United Nations to do the same. Both men deny the allegations. South African officials are withholding judgment pending new information. But they and a growing number of South Africans believe the men are being targeted unfairly.

NPR's special Africa correspondent Charlayne Hunter-Gault reports.

Unidentified Man: (Speaking foreign language)

CHARLAYNE HUNTER-GAULT: Azan, the Muslim call to prayer, heard in neighborhoods all over South Africa. Muslims are a small minority here, about 2 percent of the population, but they've lived here for generations in peace.

However, the United States in recent days has accused some of them of aiding terrorists, a charge that's tarring many with the same brush as they travel outside the country.

Mr. ZAHIR ADAM(ph) (Attorney): They were sent back from Senegal, saying that they were not allowed into the United States because - for whatever reason. No explanation was given to them.

HUNTER-GAULT: Zahir Adam is an attorney representing 11 Muslims who insist their rights have been violated by the United States solely because of their religious beliefs.

Mr. ADAM: They asked my client whether or not he knew the Koran verbatim, whether he had been to Afghanistan, whether he knew how to make bombs.

HUNTER-GAULT: The 11 men have appealed to the South African government to find out why they are being listed and to take steps to fight this international oppression, in their words. Others denied admission to the United States include research professor Adam Habib, who earned his Ph.D. in political science from New York City University and has traveled in and out of the United States dozens of times since. He was detained at the airport in New York as he arrived last October for meetings. A former anti-apartheid activist who was imprisoned by the apartheid regime, Habib says his detention without explanation reminded him of those days.

Professor ADAM HABIB (Director, Human Sciences Research Council): The kinds of questions that were asked and the fact that there are whole series of foot soldiers who would not argue what the rules were. The fact that they

treated everybody with suspicion and a kind of formal politeness, but that you knew underneath was contemptuous of who you are and where you came from. That message came out all the time.

HUNTER-GAULT: But Habib says there was also another message.

Prof. HABIB: There was the old European who walked into the Homeland Security office. But, you know, everybody else was, anyone could argue, of Muslim origin. And this was a racial profiling of the worst kind.

HUNTER-GAULT: Habib was deported. And recently the visas of his wife and two children were revoked. Habib's 11-year-old son was preparing for a trip to United States with classmates to participate in a program aimed at helping students of the world get to know each other. The school cancelled the trip in protest.

Mr. AZIZ PAHAD (Deputy Prime Minister, South Africa): It's very wrong.

HUNTER-GAULT: South Africa's Deputy Foreign Minister Aziz Pahad.

Mr. PAHAD: I have never had any indication that Professor Habib or his family were involved in any activities that can be widely called terrorism.

HUNTER-GAULT: Pahad says even his government can't find out why so many of its citizens are being black-listed.

Mr. PAHAD: Absolute non-transparent process.

HUNTER-GAULT: A U.S. official speaking on background says they're looking into Professor Habib's case. And while the ruling was justified, the case he says poses challenges. But as in Habib's case and others, the officials said U.S. privacy law prohibits the release of any information on parties denied entry into the United States. Reports are there are more than 300,000 names of people around the world on the list, and growing.

Charlayne Hunter-Gault, NPR News, Johannesburg, South Africa.

LOAD-DATE: January 31, 2007

Exhibit M



U.S. Consulate General
Johannesburg, South Africa

Habib, Adam Mahomed

Dear Professor Habib:

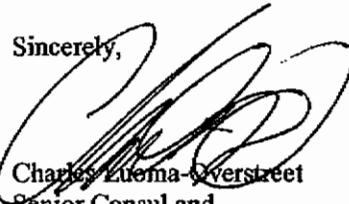
This office is unable to conclude processing your nonimmigrant visa at this time, as we require additional information. Further action in your case has been suspended under section 221(g) of the United States Immigration and Nationality Act, pending the receipt and review of the information below.

Upon receipt of this information, we can continue processing your application. Detailed and complete information provided by you will assist us to process your case more quickly, while incomplete or inconclusive information may result in further delays.

Your application requires administrative processing and additional clearances/review in Washington. We will contact you once your case is ready to be processed to completion or if additional information is required. Unfortunately, as this review involves Washington-based offices outside of our Consulate, we are unable to provide a firm estimate of how long the process will take to complete.

Should you have inquiries, additional information to provide or simply wish to follow-up, please do not hesitate to contact me at 011-644-8000.

Sincerely,


Charley Lueema-Overstreet
Senior Consul and
Country Consular Coordinator
South Africa

✓

Exhibit N



U.S. Consulate General
Johannesburg, South Africa

October 26, 2007

Dr. Adam Mahomed Habib
15 Engelwold Drive
Saxonwold
Johannesburg, Gauteng

Dear Professor Habib:

I am writing to advise you that the Department of State has concluded an interagency review of the prudential revocation of your nonimmigrant visa.

I regret to inform you that upon conclusion of that review, the Department of State has upheld a finding of your inadmissibility under section 212(a)(3)(B)(i)(I) of the United States Immigration and Nationality Act. A copy of this statute is enclosed for your information.

During the course of your nonimmigrant visa interview on 11 May 2007, you indicated a desire to pursue a waiver of ineligibility should the review of your case result in a finding of inadmissibility. I would further advise you that the Department of State has completed consideration of your application for a waiver of this ineligibility. Unfortunately, based upon that review, the Department has determined that it will not recommend a waiver of ineligibility in your case. There is, therefore, no further action that this office can take on your application at this time.

I hope that this information is of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Buona-Overstreet".

Charles Buona-Overstreet
Senior Consul and
Country Consular Coordinator
South Africa

(B) Terrorist Activities**(i) In General¹⁵**

Any alien who--

- (I) has engaged in a terrorist activity;
- (II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));
- (III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;
- (IV) is a representative (as defined in clause (v)) of--

 - (aa) a foreign terrorist organization, as designated by the Secretary of State under section 219, or
 - (bb) a political, social or other similar group whose public endorsement of acts of terrorist activity the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities;

- (V) is a member of a foreign terrorist organization, as designated by the Secretary under section 219, which the alien knows or should have known is a terrorist organization¹⁶ or¹⁷
- (VI) has used the alien's position of prominence within any country to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has

¹⁵ Subsec. (a)(3)(B)(i) amended by Sec. 411(i), Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. No. 104-132, Act of Apr. 24, 1996, 110 Stat. 1214; Sec. 342(a)(1), (2), and Sec. 355, Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, Act of Sept. 30, 1996, 110 Stat. 3009. Note that insertion of subclause (IV) [relating to incitement of terrorist activity] by IIRIRA § 342(a)(2), "shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and shall apply to incitement regardless of when it occurs"; see IIRIRA § 342(b). Further amended by the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001", Act of Oct. 26, 2001, Pub. L. No. 107-56, 115 Stat. 272, as follows: USA PATRIOT ACT § 411(a)(1)(A)(ii), amending subclause (IV); USA PATRIOT ACT § 411(a)(1)(A)(iii), amending subclause (V); USA PATRIOT ACT § 411(a)(1)(A)(iii), adding subclauses (VI) and (VII); USA PATRIOT ACT § 411(a)(1)(C), amending subclause (II). Retroactive application of amendments made by Sec. 411 of USA PATRIOT ACT, see Note following INA § 212.

¹⁶ Although a comma probably should appear here, none was included when the words "which the alien knows or should have known is a terrorist organization" were inserted by IIRIRA § 355. Note that this subclause (V) was originally inserted as "(IV)" by AEDPA § 411(i)(C), and later redesignated as "(V)" by IIRIRA § 342(a)(1).

¹⁷ To reflect the presumed legislative intent of the amendment made by Sec. 411(d)(1)(A)(ii), USA PATRIOT ACT, Pub. L. No. 107-56, the word "or" has been inserted here, at the end of this subclause (V), rather than (as directed literally by the amendment) following "section 219".

Exhibit O



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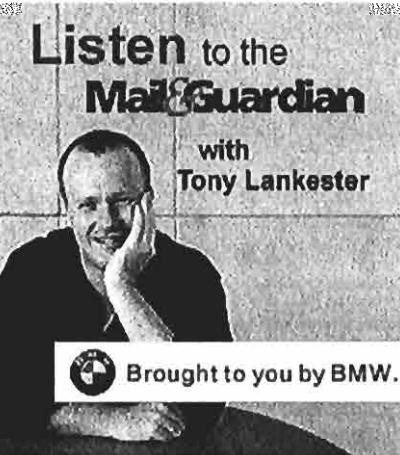
COMMENT & ANALYSIS

Reflections of a banned South African

Adam Habib: COMMENT

26 January 2007 09:18

- 1 Last week came the announcement that the United States government had asked the United Nations Security Council to list two South African citizens, Farhad Ahmed Dockrat and Junaid Ismail Dockrat, on its "terrorist" watch list. Both were accused of having links with al-Qaeda, fundraising for its activities and recruiting South Africans as its operatives. South Africa and all other UN member states would be expected to place travel bans on the two and to freeze their assets.
- 2 When asked by South African officials for evidence against the two, the US balked, suggesting that its intelligence could be compromised if it accedes to the request. Instead, it demanded that South Africa prove the innocence of its two citizens.
- 3 On January 24, Minister of Foreign Affairs Nkosazana Dlamini Zuma instructed South Africa's permanent mission in New York to place the names of the two South Africans on hold until bilaterals had been concluded with the US. A temporary reprieve has been achieved. But what should we do? Should we be pragmatic and play along with Washington and the UN? Or should we defend the two men on the grounds that they are innocent until proven guilty?
- 4 Perhaps our government should be guided by the obligations of our Constitution and by the recent track record of the US government itself.
- 5 The South African Constitution is very clear: it allows our government to undertake or participate in the "war against terror", but only within the framework of respect for the human rights of its citizens. In the case of the two individuals concerned, they can be acted against only if there is sufficient evidence that they have been involved in recruiting for and financing terrorist activity. It is true that some anti-terrorist legislation may sanction limited government action against the two, but this would go against the spirit of our Constitution. Can we take the risk of violating our Constitution on the word of a government whose recent track record on human rights is so questionable?
- 6 Let us briefly review this track record. In recent years, the US government has detained hundreds of people at Guantánamo Bay with no legal recourse. This is simply detention without trial, an abhorrent repressive mechanism that



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many South Africans experienced under apartheid. Just as significant is that officials of this same government have been involved in sanctioning torture against suspects in foreign lands in an apparent effort to bypass US legislation.

As if this was not enough, the US government has barred countless individuals from entering that country on the flimsiest of grounds. Last year, I was deported from New York with no explanation.

All that I have been told by US homeland security is that this has nothing to do with them, but that I have a "record" placed against my name by the US state department. Letters to the state department and to the US embassy on why I have been listed have generated no response. The fact that I lived in the US for three years, and visited it more than 10 times in the last decade, has made no difference. Nor has the fact that I regularly receive official US delegations in my office, and while I have been frank in my criticisms of their government, these visitors have always been treated with courtesy.

Two weeks ago this travel ban was extended against my wife, Fatima, and my two children, Irfan (11) and Zidaan (7). Once again, no reason was provided. How two children can constitute a security threat, and how a democratically elected government can act so maliciously against two kids is beyond comprehension.

My case is no exception. A number of other South Africans have suffered similar experiences. Nor is this peculiar to South Africans. My correspondence with officials of the American Civil Liberties Union and the American Association of University Professors, and interactions with numerous other comrades, friends and colleagues in the US, suggest that there are hundreds or even thousands of other victims who continue to be subjected to similar arbitrary, extralegal action.

The US government, feeding on the legitimate fears of its citizens, has conducted a wholesale international assault on human rights and civil liberties in the name of the "war against terror".

Hopefully, sanity will prevail among the American electorate in the medium term, and it will replace this administration and its officials.

But what of South Africa's responsibilities? If there are terrorists in our midst then we must take strong action against them. But such action must be based on evidence. We must not allow the witch-hunt atmosphere apparently prevailing in the US to infect us. If the US makes allegations against our citizens, it must place evidence on the table. South Africa's own institutions must independently interrogate this evidence. If it is found to be accurate, the law must take its course. If it is found wanting, the government must undertake its most fundamental responsibility to its citizens: it must protect them.

Such an approach will not only enable South Africa to meet its national obligations, but also its international responsibilities. Our role in the Security Council, temporary though it may be, is not to mindlessly follow the dictates of great powers, but to engage them and provide an example of responsible international leadership.

Adam Habib is executive director of democracy and governance at the Human Sciences Research Council. He writes in his personal capacity

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Africa and the 'war on terror'



Property Development & Real Estate

Exhibit P

SA querying 'al-Qaeda men'

21/01/2007 18:23 - (SA)

Johannesburg - The government has been in contact with the United States regarding two South Africans citizens with suspected links to al-Qaeda, said the foreign affairs department on Sunday.

Spokesperson Ronnie Mamoepa said the government was awaiting directives from Foreign Affairs Minister Nkosazana Dlamini-Zuma on the issue.

Mamoepa was responding to queries about a Sunday Times report which said two South Africans had been named by the United Nations security council on its list of terror suspects for alleged links to Osama bin Laden's al-Qaeda and the deposed Taliban in Afghanistan.

Farhad Ahmed Dockrat, a Muslim cleric from Pretoria, and his cousin, Junaid Ismail Dockrat, a dentist from Mayfair, were accused of being al-Qaeda "facilitator(s) and terrorist financier(s)" by the United States.

SA must ask for proof

Both men denied the allegations, said the report.

Farhad Dockrat and his son, Muaaz, were detained on a trip to Gambia last year, also after alleged connections to al-Qaeda.

Director of the Human Sciences Research Council (HSRC), Professor Adam Habib, told Sapa the United States had a track record for targeting individuals without just cause.

"Our government must ask for proof and interrogate it and then act appropriately," he said.

"Our constitution demands that if you judge our citizens, you must provide the evidence to back it up.

"They are South African citizens and we want to know on what grounds the allegations are made."

Habib, who had also been denied entry into the United States and deported back to South Africa while on a business trip last year, said that the US had misled the security council in the past.

"On a number of occasions, they have identified people who are not terrorists; how do we know this is not one of those times?

"If the security council is to recognise America's position... they (the US) must provide proof for the UN and the South African government to interrogate," he said.

Habib said however, if the terror links were proven, action should be taken.

The Sunday Times reported that foreign affairs and South African intelligence agencies had been in contact with the US state department regarding the two men for almost a year.

Face frozen bank accounts

It said the country refused to divulge evidence which led to their suspicion as it would expose their intelligence-gathering methods.

Habib said that with their names on the list, the two men faced having their assets and bank accounts frozen.

They would not be allowed to trade anywhere in the world, they would not be allowed to travel and might face harassment if they tried to do so.

Junaid Dockrat could not be reached for comment on Sunday.



Exhibit Q

Address by Ronnie Kasrils, MP
Minister for Intelligence Services
Dialogue Hosted by the Brenthurst Foundation:
Southern Africa and International Terrorism
Tswalu
25 January 2007

Introduction

I am very pleased to have been given the opportunity to address this important gathering of African and American policy makers and counter-terrorism experts. While terrorism is not a new phenomenon – a term whose origins commentators have attributed to the '*regime de la terreur*' of the French Revolution – in its contemporary form, it knows no borders and it will certainly remain a collective security issue for some time to come.

Today there are few instances where domestic terrorism occurs in isolation from international linkages. Clearly in the interconnected world of the 21st Century, no country, region, or continent can claim to be immune from the threat posed by terrorism, irrespective of whether we have faced the horror, fear and devastation confronted by the victims living at the frontline. As such forums like this one are crucial, as they provide us with a platform to build co-operation, share experiences and best practice in charting a way forward to effectively deal with this international scourge.

Here I am reminded of the wise words of a former Spanish Prime Minister, Felipe Gonzales, at the March 2005 International Summit of Democracy, Terrorism and Security, on the anniversary of the Madrid train bombings, where he stated that if a dozen or so countries put on the table everything they had on terrorism, we would have 95% of the picture. In this respect we need to set aside the rule of intelligence services that operate on a need to know basis by a need to share the necessary information.

Terrorism in Africa

We on the African Continent are certainly no strangers to the threat of terrorism. We have suffered from prolonged sectarian, colonial, apartheid and state-sponsored violence, which has claimed countless lives. Examples abound and include the atrocities committed against civilians by the Lord Resistance Army in Northern Uganda, the slaughter of innocents in Rwanda and West Africa and the devastating carnage associated with the activities of Renamo and Unita, which flourished under apartheid. Even a democratic South Africa has not been exempt, where in the early years of our freedom terror tactics were employed by various elements, which were successfully dealt with, and a rightwing *Boeremag* (White Power) gang currently on trial.

While our experience has primarily been concerned with the ravages of domestic or intra-national terrorism, Africa has witnessed the ferocity of international terrorism. The bombings in Dar es Salaam, Nairobi, Mombassa, Morocco and Egypt for example are indicative of this. Indeed, the South African Institute for Security Studies estimated that prior to the September 11 catastrophe, between 1996 and 2001, 8% of the 2 483 incidents of international terrorism were committed on African soil, resulting in 5 932 casualties, the second highest causality rate after Asia¹.

African concern with the threat of terrorism has therefore been a longstanding one, which our security agencies have been dealing with for sometime. In fact it has been argued that the genesis of a formalised multi-national, anti-terrorism campaign on our continent began as far back as the early 90's with the former Organisation of African Unity's (OAU) resolutions unreservedly condemning terrorist acts and calling on member states to co-operate in fighting against the threat of extremism of whatever description. These initiatives were taken further in the OAU Convention on the Prevention and Combating of Terrorism in 1999, which was subsequently adopted by the African Union (AU).

¹ Cited in Institute for Security Studies Submission to the Portfolio Committee on Safety and Security on the Anti-Terrorism Bill, 2002

This concern with the threat of terrorism is similarly mirrored at the level of the Southern African Development Community (SADC). In this regard, we recognise the critical role that regional organisations can and must play in advancing a continental counter-terrorism agenda and have reconstituted ourselves, within the framework provided by the AU, so as to enable us to effectively deal with the threat within the context of our broader peace and stability initiatives.

Terrorism and Radical Islam in the Region

Southern Africa, from the early 1960's to 1990, witnessed armed liberation struggles in five of some ten former colonially ruled countries – namely Angola, Mozambique, Zimbabwe, Namibia and South Africa in sequence of their freedom. The other five states were all granted independence by the former colonial power, Britain, by peaceful process (Botswana, Lesotho, Malawi, Swaziland and Zambia).

The recourse to arms against colonial or racist domination was almost universally accepted as just wars, as in the case for example of America's own War of Independence. It is important to note that the decision to take up arms by the liberation movements was not taken lightly but occurred after peaceful avenues to change were effectively blocked by repressive regimes i.e. in the Portuguese colonies, former Rhodesia and apartheid South Africa.

Few incidents of terrorism were carried out by these movements where such acts are understood to represent indiscriminate, violent attacks on the civilian population. It is with this background that I would suggest that the states of this sub-region would view the phenomenon of terrorism plaguing the world today. Whatever the claims of injustice the leaders, foot soldiers and sympathisers of the amorphous *Jihadi* movement of today might refer to, we do not see their cause fitting into the liberation paradigm I have referred to.

Where foreign intervention or military occupation occurs - as with the Palestinian territories, Iraq or Afghanistan - factors such as domestic tyranny and threats against neighbouring states need careful consideration through the United Nations multi-lateral system and international law.

Certainly the use of terrorism against civilian populations within the state itself or anywhere in the world can never be condoned. For such reasons I would argue that the governments of this sub-region, against the backdrop of our liberation struggles and sense of humanity and justice, have found ourselves duty-bound to condemn the atrocities that have paraded under the banner of the *Jihadists*.

Given that Palestine falls within the Middle East theatre, I wish to make it clear that the Southern African liberation movements always saw that struggle for national self-determination and rights and an end to Israeli military occupation, particularly from 1967, as being on a par with the just national struggles that took place in this region.

It is particularly pertinent that the plight of the Palestinians against occupation should be cited here, because without doubt the brutal treatment they suffer has served to inflame, in my view quite understandably, the concerns of Muslim people everywhere, including in this part of Africa. It would be a huge error indeed to ignore the sensitivities of the one and a half billion Muslims on this planet over the cruelties and indignities, witnessed on television, on fellow Muslims in Palestine and in Lebanon in respect of the recent Israeli bombardment of civilian areas or elsewhere.

Leaving aside the rights or wrongs of the Coalition of the Willing's involvement in Iraq, the kinds of atrocities that emerged at Abu Ghraib prison; or the human rights issues concerning Guantanamo detentions; or brutality by British soldiers captured on video at Basra; or the dangerous trends towards Islamophobia and racial stereotyping and marginalisation in the West, certainly create grounds for *Jihadist* recruitment and extremist reactions. Such actions not only undermine human rights and values but result in the

mobilisation of sympathy and rejoicing in some sectors over even the most despicable terrorist outrages.

Whilst the topic that I have been asked to address is *Southern Africa, Terrorism and Radical Islam: Is there a connection, is there a concern?* we unreservedly advocate the need for international co-operation and the need to beef up the capacity required to deal with the terrorist threat, although we might differ over such a term as 'radical Islam'; with similar objections to such terms as radical or fundamentalist Christianity, Hinduism or Judaism being mechanically linked to terrorism. In many instances the discourse around Islam and terrorism is characterised by the incorrect use of value-laden terminology that it often unhelpful in developing an understanding of the phenomenon and its root causes. We need to be very careful about terminology. I intend leaving my friends the Rev. Cedric Mayson and Iqbal Jhazbhay to interrogate that topic in tomorrow's session.

That being said Al-Qaeda or other such groupings have been identified as posing a possible international terrorist threat to the Southern Africa sub-region. And while all the evidence suggests that Southern Africa is certainly not a primary target, we remain vigilant, as no country can claim invulnerability, nor can we rule out an opportunistic act against foreign targets on our soil.

So far, the number of suspected operatives and supporters that have been identified are very small, with no infrastructure or established training camps to speak of. More importantly, the Muslim communities of our region reject terrorism, are law-abiding and are productively integrated into the societies of member states, where the virus of extremism, feeding on exclusion does not carry weight, as it has in Europe.

Africa's interaction with Islam

In fact, Muslims have been part of the life of the Continent and region for generations. Their migration to and interaction with the Continent more

broadly can be traced back to the 7th Century, when Islam was first introduced to Africa. This increased through the subsequent Arab entry into North Africa, spreading towards West Africa. Development along the East Coast emanates from the 8th Century or before, as part of the flourishing trade with the Persian Gulf and Oman and accounts for the strong presence from the Horn and along the Kenyan, Tanzanian and Mozambiquan coast.

In respect of Southern Africa, migration and interaction was also facilitated through trade, as evidenced by the links between Muslim traders from the East Coast and the *Mapungubwe* civilization – the largest Kingdom on the subcontinent, encompassing parts of South Africa, Botswana and Zimbabwe – which existed as a thriving and sophisticated trading centre from the 11th Century.

In South Africa, the first significant migration and interaction was in the 17th Century, when Muslims from the Malay-Indonesian archipelago, were brought to the Cape as slaves by the Dutch colonialists. Also amongst this grouping were Muslim leaders and clerics, which the Dutch had banished, such as Sheik Jusuf, who was exiled to the Cape in 1694 and who is regarded as the founding father of Islam in South Africa. The next significant grouping of Muslim immigrants arrived in the mid 19th Century, following Hindu indentured labourers from India brought to work in the sugarcane plantations of then Natal. With the attainment of democracy in South Africa and the ease of travel this migration and interaction continues and today Muslims constitute approximately 1.5 million of a population of 45 million and are found predominantly in the Western Cape, KwaZulu Natal and Gauteng cities, with some settlement in the rural towns of South Africa and our neighbouring states.

The natural coherence of traditional Islamic structures and social models has evolved here over the centuries. Traditions of tolerance, moderation, social and political engagement are deeply embedded in the manner in which our Muslim communities operate.

These communities claim their primary identity as nationals of our states and in fact play an extremely positive role within the national fabric. Not surprisingly with easier entry into our region following our democratic dispensation in 1994, some individuals connected with Al-Qaeda targeted Southern Africa as a safe haven. Evidence came to light following some score or so individuals who illegally entered the country and were subsequently deported.

These cases highlighted the role of modern communications and transport infrastructure in facilitating their movement and funds across borders, which were utilised by these individuals and their networks. Let me make it clear that we are not talking about a large number; our security services are on top of the problem and we remain vigilant.

Other challenges include the need to strengthen border security, counter illegal immigration, build capacity in the region, and combating transnational syndicated crime, the forgery of travel documents, money-laundering, and small arms trafficking which so often is connected to terrorist activities.

Giving a voice to Muslim communities

There are many developments that are positive and have played a role in addressing the threat. In particular, we have been involved in proactive efforts to engage our Muslim communities and provide them with direct engagement with government ministers. These include for example the high level forum established by the South African Government with representatives from all sectors of Muslim religious and civil society to discuss the common terrorist threat and their particular concerns.

Other initiatives such as regional and international collaboration have enabled the security services to contain terrorism and reduce its potential impact in Southern Africa.

However, the primary basis of peaceful co-existence of the diverse communities that make up South Africa's democratic society lies in constitutional equality, socio-economic integration, and religious and cultural freedom enjoyed equally by Muslims and others alike.

Some lessons

I would like to draw on this as well as other lessons, which may be useful in guiding the discussions over the coming days.

First, we clearly need to continue to strengthen the capacity of our intelligence and law enforcement bodies. We need to know our societies well enough to predict threats and act against them. We need to be able to deal with those who wish to use our countries as a safe haven by making it difficult for them to travel, obtain documentation, support and finance.

Second, terrorism cannot simply be tackled from an intelligence and law enforcement perspective, which is insufficient in itself. What is required is a holistic counter-terrorism approach, which includes technical and logistical co-operation with a programme to advance development, strengthen governance and democracy and promote human rights and social inclusion.

This enables us to deal with those issues on which terrorist groups attempt to build their support. Alienation, marginalisation, widespread poverty, underdevelopment, injustice and conflict provide the context for terrorists to establish support systems and recruit their followers.

Third, in some African countries, terrorist acts are often a feature of local conflicts even if they have wider consequences. The danger with equating all acts of terrorism with the broader 'global war' is that often these conflicts arise from grievances which have long been simmering such as for example developments in Darfur and Somalia. In these instances, force and repression often results in the escalation of the conflict, hampering peace efforts, making a political settlement difficult. Above all we need to avoid the exclusion from

dialogue and negotiations of problem states, which create possibilities or openings for terrorists. Implosion of neglected states creates a security vacuum, which generates fertile ground for terrorist movements and the space in which to establish themselves.

Fourth, there is a need to avoid destroying the rule of law or eroding international conventions. This must be fundamental. We lose everything, including the moral high ground, if we sacrifice basic principles of human rights. It is hard to explain to Muslim communities why a particular individual was denied a visa seemingly because of his name or religious persuasion.

I wish to elaborate on this lesson:

Our governments and intelligence services must be at pains to avoid demonising Islam and its communities. This will lead to incorrect threat assessments and measures that harass and discriminate against Muslim communities.

Here I wish to make specific mention of the recent withdrawal by the United States of the visa of the well-renowned South African academic and respected social commentator Adam Habib and his family, including his 11 year old son, which has caused an outcry in our country.

We are party to the United Nations Security Council Resolution 1267 listing suspected terrorists and their sympathisers but any action taken must be based on sound evidence. We must studiously avoid flawed decisions that muddy the waters and undermine legal processes.

The law and the human rights principles that underpin it are a key defence and foundation of our liberties. To tear it up, to manipulate or work around it ends in defeat. We have to fight terrorism in accordance with democratic values. The law must be part of the solution and must not exacerbate the problem.

I end with a fifth point. We need to avoid double standards where democracy is enforced, as in Iraq, or where repressive systems exist as acceptable models by the West. It is often the latter societies that have prolifically bred terrorism.

Conclusion

In closing, let me leave you with the particularly instructive comments of the South African President, Thabo Mbeki, at the 56th Session of the United Nations General Assembly in 2001, when he argued that:

'Where we might have used the concept of a global village loosely in the past, on September 11 terrorism taught us an abiding lesson that we do indeed belong to a global village. None within this village will be safe unless all villagers act together to secure and guarantee that safety. All must act to promote the safety and security of one and all on the basis of a shared responsibility born of a shared danger'.

In acting together, we must recognise that we will not end terrorism through police work, better intelligence and improved co-operation, important as they are. We will end terrorism by tackling its warped notions that sees its objective as achievable through abhorrent means. We must address the social and political inequalities that make some people misguidedly believe that terrorism can address their frustrations.

The Southern African sub-region has already established an impressive track record, together with the rest of Africa and our international partners, in so far containing the activities of both domestic and international terrorists. We will ensure that our practical defences are as good as they can be; that our intelligence co-operation and exchange is as mutually beneficial as possible; that our laws are properly designed to discourage and prosecute; and that our police and intelligence services are trained and equipped for the task at hand. Forums such as this one play a critical role in enriching these efforts and we look forward to the outcome of your deliberations and your recommendations.

I thank you.