

A new racial state? Exclusion and inclusion in education policy and practice in South Africa

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Abstract

This article seeks to argue that the nature of the new South African state is bound up with the processes of the political negotiations and the compromises that led to the coming into being of the new democracy in 1994. Incontrovertible as it is that a new state was born, always evident, it is argued, was the parentage of this state, that of a racist National Party/state and a non-racial (not necessarily anti-racist) African National Congress. From this union emerged a hybrid state with public policies that carried the ambiguous marks of its origins. These ambiguities are manifest in the policies that have developed around education. Education has become a prime site through which the re-articulated racial state can be observed. To state this argument, the article takes its empirical base from the work of the Inclusion/Exclusion In India and South Africa (Inexsa) project which looked at how race is dealt with in policy formulation and practice in South Africa to analyse the relationships between inclusion education policies and decentralisation. The study examine inclusionary and exclusionary practices in 12 schools in three different provinces.

Introduction

The nature of much social commentary on the new South Africa has been robust. While many have heaped praise on the achievements of the new South African democracy (see Sparks, 2003), equally many, including some who are unequivocal supporters of the new democracy (see Pieterse & Meintjies, 2004), have been at pains to point out its problems and shortcomings. Some have been forced to come to the conclusion that the balance sheet for the new order reveals as many losses as there have been gains. Yet others, such as Alexander (2002), Bell (2001), Terreblanche (2002), Bond (2003) and Marais (1998), have gone beyond this point, and have been scathing in their critiques of various aspects of the new government's general reform strategy, not least of all its macro-economic policy.

The discussion in education has been no less vigorous. Out of it has come a range of commentaries, scholarly articles and books that have attempted to place the complex patchwork of educational policy and practice in perspective (see Sayed & Jansen, 2001; Motala & Pampallis, 2001; Jansen & Christie, 1999; Lewin, Samuel & Sayed, 2003; Kallaway, 2002; Fleisch, 2002; Anderson, 2002; Asmal & James, 2002; Harber, 2001; Chisholm, 2004; Kraak, 2003).

Given the breadth and intensity of this discussion, and particularly the critique of the new South Africa as a neo-liberal state, surprisingly, the racial question in South Africa has remained relatively under-interrogated. While there are works that have begun to address the question of the reconstitution of the middle class in South Africa (see Soudien, 2004), with the addition of the new and influential black component to this social layer, very few questions have been raised about how race is being re-articulated in the new South Africa in relation to questions such as domination and subjugation, inclusion and exclusion, and the creating of new social hierarchies. Some commentaries, such as that of Habib (2004), have dwelt on the persistent ways in which individual identity continues to be imposed and produced in a dominant racial form, but the question has not yet strongly arisen about the role of the state in the production and reproduction of race and its consequent positions with respect to racial difference, and the ancillary questions of diversity, multiculturalism and tolerance.

This article seeks to argue that the nature of the new South African state is bound up with the processes of the political negotiations and the compromises that led to the coming into being of the new democracy in 1994. Incontrovertible as it is that a new state was born, always evident, it is argued, was the parentage of this state, that of a racist National Party/state and a non-racial (not necessarily *anti-racist*) African National Congress. From this union emerged a hybrid state with public policies that carried the ambiguous marks of its origins. These ambiguities are manifest in the policies that have developed around education. Education has become a prime site through which the re-articulated racial state can be observed. To support this argument, the article takes its empirical base from the work of the Education Inclusion/Exclusion in India and South Africa (Inexsa) project which looked at how race is dealt with in policy formulation and practice in South Africa to analyse the relationships between inclusion education policies and decentralisation. The study examined inclusionary and exclusionary practices in 12 schools in three different provinces. The purpose of the research was to explore processes of inclusion/exclusion at community and school levels in carefully selected schools in India and South Africa. The project, building on analyses of policy approaches to inclusion and their operationalisation in these countries, sought to:

- conduct a review of policy efforts to tackle social exclusion based on caste/race, and to facilitate inclusion within education;
- develop empirical case-studies of specific national, state/provincial, and institutional efforts to promote inclusion;

The study located itself in three provinces, namely the Eastern Cape, KwaZulu-Natal and the Western Cape. The three provinces were selected primarily because they reflected particular dynamics of 'race' in the transition of South Africa. The focus in the study was on inclusion and exclusion at school level. Within the study this was understood to mean that inclusion and exclusion in schools need to be viewed at macropolicy levels as well as in the dynamics within schools at microlevels. Macrolevel quantitative information about the demographics of the provinces within which the schools were located, needed to be accessed. In addition, quantitative information about the composition of the educators and learners in each school also needed to be documented. Quantitative instruments were used to access this type of information.

Also on a macrolevel all the relevant laws and policies with regard to education in South Africa were analysed. In this regard a textual analysis approach was used to interrogate the kind of macropolicy within which all schools in South Africa were placed. The analyses of these policies are reported in Chapter 3 of this report.

At microlevel in the school both qualitative and quantitative approaches were used. A quantitative approach was used through the administering of questionnaires and gaining statistical information about the schools. A qualitative approach, which predominates throughout this study, used open-ended questions and scenarios in the questionnaires. Qualitative methodological orientations were also evident in the use of interviews, participant observations and case studies.

The approach developed in this article emanates from an engagement with the work of David Goldberg, particularly that of his seminal book, *The Racial State* (2002), and recent discussions around the notion of decentralisation. Towards developing an understanding of the ways in which decentralisation in education exemplifies the modalities of the racial state the article moves through three key phases. The first phase concerns Goldberg's thesis on the racial state, the second focuses on the policy texts which delineate decentralisation and inclusion, and a third looks at the practices that have developed through and as a result of the policy text.

Racial states

Rhetorically the new South African state is defined by non-racialism. The state came into being in response to an egregious form of racism that had systematically structured both the quotidian and the formal aspects of all South Africans' lives along deep lines of inequality and oppression. This racist structure was produced and reproduced physically and ideologically through a battery of laws that privileged white people and punished black people. When the new state came into existence, its most important task was that of positioning itself as the antithesis of its past. It had to be everything that the old oppressive order was not. Where the apartheid state was premised on a narrative of white supremacy, the new democracy had to re-imagine itself as an open state in which all enjoyed the right to dignity and equality. Where the discursive vocabulary of the old operated around a small lexicon of exclusionary, forbidding and authoritarian terms, the semiotic framework offered by the new had to allow for inclusion, recognition and the making of solidarity around the themes of a common humanity. And so, in establishing itself, the new post-1994 order declared its commitment to four key values, the second of which, after the first on human dignity, was that of non-racialism and non-sexism (Constitution of the Republic of South Africa, 1996). Formally, therefore, the new state took its place in the world order as a state for all its peoples.

The movement from policy to practice, however, is seldom so felicitous. This article seeks to show how the state seeks to constitute itself as a non-racial state, but, in making political compromises with the managers of the old order, lends itself to processes of re-racialisation, and in so doing becomes, once more, a racial state.

In *The Racial State*, Goldberg argues against two predominant conceptions of the modern state, especially with respect to race. The first view projects the state as a purely autonomous political entity distinguishable from other social, economic and political structures and processes

in society. The second view constructs the state as an epiphenomenon of any one or a combination of a range of social forces. Drawing on but critiquing theorists such as McKinnon (1989), Goldberg (2002, 7) argues that the state is neither an instrument of external social forces nor a reflection of an inner internally coherent logic, but a structure that is inherently contradictory and internally fractured, "consisting not only of agencies and bureaucracies, legislatures and courts, but also of norms and principles, individuals and institutions." He develops the argument, however, by suggesting that representatives of the state "in a loose sense" form a class, internally diverse, fractured, but in modern terms "racially patterned" (Goldberg, 2002, 8). Struggles take place in this class and with other contestants outside of the state over the form the state is to take. In terms of this, the state is a "more or less coherent and discrete entity in two related ways: as state projects underpinned ... by a self-represented history as state memory; and as state power(s)." With these powers, the state has the power to exclude both *within* itself and *from* itself. Having the power to exclude from itself, the state is able to determine who enjoys its protection and who is excluded from its protection. Given these powers, the state lends itself conceptually to be defined as a racial or gendered formation – "the power to exclude and by extension include in racially ordered terms" (Goldberg, 2002, 9).

The extension of Goldberg's argument, for the purposes of revealing his *Racial State* thesis, is that the state stitches its social exclusions into what he calls "the seams of the social fabric" and by so doing achieves the naturalisation of exclusion. The larger effect of this is for processes of social exclusion to mark social belonging and identification in the state, either as that of enfranchisement or disenfranchisement – citizenship or subjection. This power of definition and delimitation, Goldberg (2002, 10) continues, offers the modern state the artifice of internal homogeneity in which the status of inclusion is equated with that of membership of the nation and heterogeneity a threat that has to be placed outside of the state.

Much of Goldberg's argument holds powerfully for understanding the narrative of apartheid, but does it work for a post-apartheid South African state? Is the artifice of internal homogeneity an object of desire for the new South Africa? Clearly not in the precise terms he is postulating. Much of the 'talk' of the new South Africa, as clichéd as it sometimes is, especially when it is rendered as the 'rainbow nation', or 'unity in diversity', and so on, is ostensibly about the development of a discourse of difference and the accommodation of otherness. But the substance of Goldberg's argument holds. In talking about the state as a state of projects operating off its ability to represent itself historically and to constitute an official memory around a self-representation which it will mobilise as state power(s), applies powerfully to the range of policies that have been developed in South Africa after 1994. The argument that is made here is that the principle at the core of the new state's governance arrangements is that of decentralisation. This decentralisation, it is proposed, is at once a project for democracy but also a mechanism for the management of racialisation and racial difference. As a democratic project, it is about managing the country's heritage of difference and the inequality that went with it. In those terms, it is, therefore, an explicit project for heterogeneity (conceptually recognising difference through homogenising the *rights*, not the identities, that come with difference.) At the same time, however, the principle of decentralisation permits, if not the reproduction of key racial features of the old order, but then certainly the remaking of those old features in new forms. In these terms, much as decentralisation is a project for democracy, it is also a racial project.

In this article the relationship between the particular form of decentralisation that is emerging in South Africa and the new order's objectives of social inclusion is problematised. In particular the article seeks to show how, against the backdrop of South Africa's racial apartheid legacy, decentralisation, as a means of promoting democratic participation in schools, is constructed in racial, and indeed also class, tension. These tensions, it is argued, derive from, and are inherent in the nature of the new state. The new state, it is suggested below, takes its character structurally from the coming together of the old bureaucratic apparatus of apartheid and the new political

administrative leadership installed by the new government, and politically, from a Risorgimento African National Congress government, formed out of the political settlement that was struck between the African National Congress (ANC) and the apartheid National Party (NP), seeking to unite the disparate and often ideologically contradictory elements that make up the South African political landscape. These two developments have given rise to a new state, that is, in Goldberg's terms, a loose and internally fractured site of power, with considerable power to make policy vested in administrative leadership which is, nonetheless, consistently compromised by the nature and composition of the implementing agents beneath it.

This 'loose' unity of the state is readily evident, as many familiar with the new government will recognise, in the rhetorical consistency of the discourse of the state. Even those remnants of the old bureaucracy that continue to hold office in the new order have learnt 'the speak' of the new democracy. This 'speak' consists of a number of signature commitments, such as the need to deliver a more just and humane society in a climate of rising expectations; the commitment, in an acknowledged greater atmosphere of increasing globalisation and financial austerity, to providing the conditions for stimulating economic growth and development; the commitment, in the context of different people's 'group' rights, to national unity; and, a commitment to the deepening of the processes and practices of democracy.

The 'fractured' nature of the state is also readily evident in the almost incommensurate functions it has to fulfil: namely, delivering a society that is just and humane, providing the conditions for capital accumulation and ensuring the conditions for the development of national unity (Offe, 1984 & 1996; Gordon 1997). These fractures sit at the heart of the contradictions of the new state and, in some senses, constitute the dilemmas of the country as a modern economy. Less visible, is the *social* – as opposed to economic – inflection of this state of fracture. As the state emerges as a new modern state, with obligations to the global order, its management of issues of justice and social development forcibly raise the question of race and the racial heritage the country has to work with. What strategies ought a globalising and modern emerging economy follow with respect to its divided racial past? It is in this respect that decentralisation offers the new state a mechanism for looking both to its past and its future, towards, ostensibly, framing the nation in singular terms, as a community of communities, defined constitutionally by equality, but at the same time, in respecting the global imperatives of free markets and unfettered choice, giving communities the structural means to operate with a relatively strong degree of autonomy.

As the authors have argued elsewhere (Sayed & Soudien, forthcoming), these developments are not very different to what has happened elsewhere in the world. Dale (1997) suggests that the modern state can be considered to have undergone a form of 'hollowing-out', with some state activities taken up by supra-national (and supra-international agencies) whilst others are lost downwards to sub-national or non-state bodies. He further suggests that this does not necessarily imply a loss of state power or its withdrawal so much as a dis-aggregation of the state and a redefinition of what the state is. The 'hollowing-out' of the state as an upward and downward loss (or, more accurately, a redefinition of roles) is constituted in a very particular way in post-apartheid South Africa. The new post-apartheid state is, as a conditionality of the negotiated settlement, internally reorganised into a national state at centre and dispersed, decentralised states at sites (provinces). The semi-federalist, decentralised Constitution involves different activities and mechanisms of co-ordination between the centre and the sites. With respect to education, the national centre is responsible for the funding of the sites but is not involved in the management and control of schools within the sites. In Dale's (1997) terms, the state funds but does not deliver and provide.

Elsewhere the authors (Sayed & Soudien, forthcoming) have argued that the legislation defining this condition is a constraining – as opposed to control – mechanism to manage the actions of internal state actors and that this constraint produces a particular kind of political ambiguity which lends itself to juridical resolution. This has been particularly evident in the

growing body of litigation between schools and the provincial governments.¹ A key case in point is that of the Grove Primary School versus the Minister and others (1997).² In the Grove case, a former Model C school (a former white school) successfully challenged the power of the provincial department of education to take away their right to appoint teachers. In terms of the regulations provincial schools were compelled to appoint teachers from a list, provided by the provincial Department of Education, considered to be redundant and whom the Department sought to redeploy. The court's finding for Grove did not bring an end to disputes between governing bodies and provincial education departments about the employment of educators. There have been, following this case, a number of cases where the courts have found in favour of schools. The courts have generally strongly safeguarded the right of schools to take on only those educators whom they have recommended to the department for employment³.

Aside from the contribution of Jansen (1999), not enough attention has been paid to the racial implications of these developments. From a race perspective, what these developments reveal, is the continued amenability and indeed availability, of the new policy for 'racial work' – for the mobilisation of certain sections of the public along racial lines, and, ironically, given the human rights gloss on the Constitution, for protecting the right of racial groups to sustain discourses of difference that are profoundly discriminatory. In terms of the last, while these discourses never become explicitly racial, they subsist on deeply racialised assumptions, such as the equation of high standards with whiteness. The discourses are never transacted in racial terms, but their general tone, and the demarcation, emplacement and positioning of subjects within them, are largely racial. Possible within the law, therefore, alongside of the law's stated human rights protective interests, are discriminatory racial possibilities. An argument can be made, as the courts have confirmed, that there exists in the new policy hidden racial codes and practices, that lie latent in the ambiguity of the text and that are easily deployable and cannot be readily discarded. These are profoundly important insights with respect to the nature of the new state and are taken into the discussion below.

The policy text: Decentralisation

Using the argument developed above, the line of thought pursued below, is that while the general policy direction of education, as embodied in the South African Schools Act of 1996, aims at providing free, compulsory and equal education, latent within it are exclusionary possibilities. The argument will be made that the way in which decentralisation was implemented, by devolving authority and governance to schools, for example, provided racially and economically defined communities the legal means to preserve their privileges.

The ability embodied in the law for racially and economically defined groups to preserve their privileges is evident in a number of key pieces of legislation and policy statements. Outside

¹ There have already been about 20 instances where schools have taken the state to court. Whether litigation between the formal authority of the province and the formal authority of the state is possible, particularly when the state and the provinces are under the control of different political parties is an interesting possibility.

² Jansen (1998, 5) describes the 'Grove Case' as 'one of the most complex, controversial and contested legal cases in the history of South African education.'

³ See, for example, *Douglas Hoërskool en 'n ander v Premier, Noord-Kaap en andere*, 1999 (4) SA 1131 (NC); *Gordon Harrison and another v Minister of Education and Training and another*, 2002, High Court, Pietermaritzburg, Case No. 4295/98; *Laerskool Gaffie Maree and another v MEC for Education, Training, Arts and Culture: Northern Cape Province and others*, 2002, High Court, Northern Cape Division, Case No. 1240/01; *Settlers Agricultural High School and another v Head of Department: Department of Education, Limpopo Province and others*, 2002, High Court, Transvaal Provincial Division, Case No. 16395/02; *Destinata School and another v Head of Department: Department of Education, Gauteng and others*, 2003, High Court, Case No. 10207/2003.

of education, the most serious exemplification of the racial possibilities inherent in the new policy regime of the country can be found in the inability of the government to develop a housing policy that also includes the necessity for social integration.⁴ In these instances, it is economic injustice that fires the state's imagination. Little cognisance, however, is taken of how the physical geography of inequality is inscribed in racial terms. In education itself, laws that could be interpreted to be available for exclusionary projects include the South African Schools Act (1996) and the National Norms and Standards for School Funding (NNSSF) Bill (1998). The ability of the NNSSF to effect equity and redress in South African education is constrained by two factors. Firstly, as the document acknowledges,

... the National Ministry of Education does not decide on the amounts to be allocated annually for provincial education departments ... Each province determines its own level of spending on education ... it follows that the national norms for funding schools cannot prescribe actual amount in rands per learner. (Department of Education 1998, 11)

Thus, the semi-federal structure of education makes direct intervention difficult and instead the state is reliant on the 'provinces to *honour* the state's duty' (Department of Education 1998, 12 – authors' emphasis).

Two key principles, evident in the South African Schools Act (SASA, 1996), underlie the state's approach to the provision of schooling. These are choice and participation. An important feature of these principles is their inherent contradiction. While participation is fundamentally about the deepening of democracy (as is choice, in a marketised way), choice permits the conditions to take root in which groups and individuals are able to advance narrow sectional interests. Choice in education underpins the NNSSF document which states that the 'SASA *imposes a responsibility* on all public school governing bodies' to raise additional resources (Department of Education 1998, 12 – authors' emphasis).

There is some recognition in the state of the susceptibility of the new legislation to class manipulation. The drafters of the NNSSF, for example, express surprise at the fact that "the provision of the Act appears to have worked thus far to the advantage of public schools patronised by middle-class and wealthy parents" (Department of Education 1998, 12). However, there is little acknowledgement of the extent to which race is validated as a category of exclusion, or of how class has been appropriated as a new space within which racial forms of exclusion can continue to operate.

The argument that this section of the paper has sought to make is that the policy text can be read in a number of ways. It can be read as being inclusionary, but it can also be decoded for the latent forms of racial discrimination that lie embedded in legal provisions and formulations that either weakly encompass a consciousness of race or in other ways lend themselves to being mobilised in racially exclusionary ways. At the core of these developments are the modalities of decentralisation.

Policy practice in school

This section of the article proceeds to the concrete level and attempts to show how racial codes are discernible in policy implementation. Key areas of policy implementation are looked at that provide a way of understanding the relationship between inclusion and decentralisation. These areas include

⁴ The labour federation COSATU in the Western Cape announced on the 19th of May that it was going to embark upon a campaign of what it called 'integrated' housing development. This was in response to the largely white community of Hout Bay having obtained a court order to prevent further land clearing for informal housing development.

- Governance and institutional ethos – the ways in which schools govern and manage their activities based on their reading of the post-apartheid policy framework.
- Access – who obtains access to school, how, and what admission policies are implemented at the school level, and
- Curriculum – the ways in which school and teacher mediate the national curriculum in relation to inclusion.

The authors argued in an earlier paper (Sayed & Soudien, forthcoming) that the way in which the decentralisation policy text has been grafted onto the landscape of practice, has served to *re-articulate* and *re-present* what the national policy intended to do. That argument is taken further in this article where it is argued that it is not simply the tension between choice and democracy that is at issue in this discussion. While that tension is critical, it is argued here that choice is a racial code and that this choice is not only in tension with the broader aims of democracy but that it actually conditions that democracy.

Governance and race

As suggested earlier, the SASA has been central in the remaking of the South African school landscape. The government passed the South African Schools Act with the specific intention of giving parents the responsibility of managing their children's schools. This had been denied them by the old government. They were now taking direct control of their schools through school governing bodies (SGBs) composed of parents, educators, learners (in the case of secondary schools) and members of the school support staff. Critical areas, relevant to this discussion, in which SGBs were given responsibility included promoting the best interests of the school by providing quality education for all learners; determining a language policy for the school; determining an access policy; adopting a mission statement that set out the goals and the shared values of the school; adopting a code of conduct for learners at the school; and recommending to the provincial Head of Department (the Director-General in most provinces) educators for appointment at schools. In addition all SGBs have the right to supplement their school's resources by levying schoolfees.

Clearly, as these responsibilities suggest, school governance provides the school the real opportunity for institutionalising democratic structures and practices. But this is only a possibility and not, in a Weberian sense, a procedure of inevitability. Particular features of the Act, however, compromise the possibilities of achieving this. The Act projects parental identity around a restrictive middle-class construction of who parents are and how they function. It is assumed that parents come from traditional middle class nuclear families (in terms of how it is understood time is used, what domestic resources they can commit to the schooling process, and how much cultural capital parents can draw on in relating to school and so on.) Less obvious, and less amenable for analysis, are the racial codes that continue to circulate in the Act. The Act invests in schools the power to define their community or corporate identities. Whereas schools in the old apartheid order very definitely took their identities from their relationship to the state (as, for example, 'white' schools or 'Indian' schools or 'coloured' schools), the new Act gives parents the right to define and protect 'their' linguistic and value orientations. In the new order, as juristic persons capable of entering contracts in their own name and capable of branding themselves, schools have the power to establish identities independent of that of the state. They can invoke 'race', for example, without ever having to name it. This power has emerged out of the responsibility school governing bodies have taken of 'promoting the best interests of the schools' and achieving 'quality education'. It is argued that new racial discourses and practices have come into being in the country, the most powerful of which are those of 'standards', 'language' and schoolfees.

'Standards' and inclusion

A key way in which the issues of 'race', inequality and participation are being negotiated in the schools is through the question of 'standards'. 'Standards' provide schools with a way to re-articulate concerns of 'race' and class and displace and defer considerations of racial equity. As many parents and educators in the Inexsa study argued, 'standards' were non-negotiable. Thus, excluding 'black' parents from SGBs, and 'black' teachers from staff appointments was justifiable and acceptable to these schools because 'standards' needed to be upheld. The schools felt that they had much to hold on to and resisted attempts to change the 'standards' of their schools, upon which the identities of schools were based and sought to preserve the levels of 'excellence' they thought they had attained. This was very evident in the three schools in this study and present in all the others.

It is suggested in this article that the evidence from the field demonstrates a strong reconfiguration of class, drawing on the support – passive and aggressive – of elements of the new black middle class for the project of 'white excellence.' Many schools in this study reflected a rhetorical commitment to change, but a change that preserved the substance of the old. The form could change, but not the substance. Oasis in KwaZulu-Natal (KZN), for example, worked hard to maintain its pre-1994 shape and ethos, and found a supportive parent body, including 'black' people, who were in strong support of this approach. Ruby in the Eastern Cape resisted the appointment of a non-Afrikaans educator and struggled to achieve the withdrawal of this educator's appointment. Amazon, also in KZN, interestingly, sought to increase its 'African' enrolment, but did so reluctantly. They, moreover, cynically brought 'black' people in only because they had no alternative. In doing so, however, it was clear that they did not hold their new members in high regard.

The issue of standards was very evident in the appointment of educators. At two schools, Marula in KZN and Ruby in the Eastern Cape, the appointment of 'African' members of staff revealed the ongoing and unresolved racial mind-sets that determined the character of the school. At Basildon in the Eastern Cape, even though the large majority of the school was 'black', tellingly, the 'black' middle-class parents chose to have a principal and a deputy-principal who were 'white'. At Marula an 'African' principal was appointed and this caused immense dissatisfaction amongst some 'Indian' parents who were deeply unhappy about the perceived lowering of standards at the school that that appointment would produce. The appointment of the principal was viewed as the primary cause for the deterioration in the school. Some parents even expressed the view that if they could have afforded it, they would have moved their children to a 'better' school, preferably a 'white' one.

At some schools, what were apparently gendered practices, revealed themselves, upon deeper inspection, as also profoundly racial practices. VPS in the Western Cape, for example, had all the formal trappings of democracy (e.g. a democratically elected school governing body, a weekly newsletter for keeping the school community informed). In this school the metaphor of 'the family' powerfully subsumed all the complex differences within the school within a harmonious construction of inclusiveness. Elaborating the implications of living within a happy, family environment, the principal projected himself as a benign father. The school's 'mothers', also, exclusively ran The Mother Programme and The Catering Committee. These practices fed into and defined the ideals for all the parents in the school and shaped their relationship to the school. It was assumed that most mothers who had learners at the school did not work, or had flexible working schedules that would allow them to come to the school during working hours. These allowed the school to draw on existent and strongly encoded social structures within the school, many of which were not as familiar and accessible to parents who were not 'white' and middle-class. These structures and approaches were important mechanisms for the reproduction and the maintenance of the school's essential 'white' and middle-class identity. Projecting these approaches as 'family-orientated' allowed the school to assimilate newer parents, and even non-middle-class

parents into its social-racial project. Parents of learners of colour thus had access and rights of way in the school, but decidedly so on the school's terms, and these were ratified and endorsed by the SGB.

The situations at Eastdale College, one of the project's Eastern Cape schools, and North City Afrikaans in Cape Town, were similar. The schools had effectively assimilated parents into the new racial project of the school. This was most evident in the consistent and seamless representations of parents in their 'responsible parent' identities. These identities were modelled on 'white' middle class parents with narrow 'European' cultural capital and aspirations. At Eastdale, for example, the school principal was placed under disciplinary action in 2003 for attempting to engineer the exclusion of a 'black' parent as the chairperson of the SGB.

Important in these illustrations is the degree to which school governance provides schooling communities with the manoeuvrability to negotiate their own agendas in entirely legal ways. While it is true, as Ball (2003), drawing on Poulantzas, says that what these middle classes are doing are mobilising around the contradictions in the system; more complexly, they are able to draw on codes within the policy that have yet to be completely outlawed.

Access: Fees, language and the revival of race

From the evidence gathered in the Inexsa study, it is clear that access and inclusion are regulated at all of the schools. Implicit in each of the schools was an attitude to who had rights to admission, what constituted valid reasons for exclusion and so on. In some schools, pragmatic considerations demanded that schools adopt an approach to dealing with these questions. Examples of these included the issues of pregnancy, age gaps between learners, the rights of young men who had gone through circumcision rituals, repeaters who sought admission from other schools and other issues. These examples aside, it was clear that free and open as SASA prescribes schools should be, in reality schools are able to significantly control who they will admit.

Each of the schools in the study declared themselves to be operating in compliance with the SASA. In practice, however, schools were taking their own roads forward, in terms of what they thought was *in their best interests*. This produced a situation in which schools varied from the Marula model which was entirely an open-door one, to the approach of Amazon which used admissions and access to improve the school's matriculation pass rate profile and admitted learners on the basis of their ability to pass the matriculation examination.

At the more open end of this spectrum were the traditionally 'black' schools such as Lagaan and Ruby. At Ruby Primêr, for example, the principal reiterated that the school did not exclude any learner except those who, as the principal said, were 'problem learners'. At Lagaan in the Western Cape, based on interviews with educators, parents and learners, it became apparent that admission was relatively easy, even though at this school there were parents who experienced difficulty in paying fees and who explained that they were made to feel embarrassed about this. Even these schools, however, were not entirely open. Language was used as a consistent way of excluding parents and their children or limiting their rights. At Ruby Primêr one parent reported that her son had been demoted to a lower grade because he did not have an Afrikaans background but "there is nothing we could do because they said he could not understand Afrikaans." Curricular choice was another means of managing entrance, as was limiting admission in terms of racialised definitions of what the school's catchment areas were. At Amazon, in KwaZulu-Natal, for example, educators favoured the admission of learners only from the local area who were 'Indian'.

These situations were very different from those found in the ex-Model C schools where affordability emerged as the key issue in mediating access. In the case of Eastdale parents had to 'be able to afford it' in order for their children to be part of the school. Many 'African' parents chose Eastdale based on the view that such schools offered a better quality of education. Many wanted the school to remain an exclusive school. It was very much a school for the middle class, and,

moreover, a boys' school. When applying to Eastdale parents had to indicate whether or not they could afford the school's fees. Some of the learners were interviewed before being admitted to the school. In some instances, the learners were required to write entrance exams for them to be accepted by the school.

At North City, as at many former Model C schools, high fees counted against poor parents, even though they had the statutory right to demand admission. Parents were required to go through a process of applying to be exempted from the fees which effectively stigmatised them in such a way that they chose not to send their children to those schools.

Clear from this discussion, despite the commitment to openness in the system, is the continued racial undertone accompanying and over-determining the policy. Open as schools had formally become, in practice they remained sites in which the hegemony of race continued to operate. Access, for example, presented itself as a process susceptible to racial manipulation. Not only were schools manifestly assimilationist, they were assimilating young people and their parents into a racial project.

In the context of this, the one mechanism deliberately instituted by the state to protect individuals and communities against discrimination, namely that of fee exemptions, can also be seen to be especially recruitable behind the racial project. The key problem surrounding the proposal is at the level of implementation. Firstly, the conditions for fee exemption do not, in the absence of any monitoring mechanism, prevent schools from 'screening out' those who are unable to pay. Secondly, the NNSF document shifts the onus for determining who is exempt and who is not to school governing bodies. In so doing, the school bears responsibility for exclusion rather than the state. The state thus recedes as an active interventionist agent and passes the responsibility for ensuring equity and redress to individual school governing bodies. Thirdly, the NNSF document assumes a high degree of knowledge on the part of parents to apply for exemption. This, as Ball (1994) argues, is likely to benefit the middle classes who possess the necessary cognitive capital to manipulate the system to their advantage.

Curriculum and inclusion in a decentralised system

Formally all the schools in the study were teaching according to the requirements of Curriculum 2005 (C2005), the government's new high-profile outcomes-based curriculum. How this was happening, however, was strongly shaped by the country's racial and class history.

C2005 is a skills-based curriculum as opposed to a content-based one. As such, it only provides educators with guidelines and 'outcomes' that ought to be achieved, but prescribes neither what content ought to be used nor the ways in which lessons should be designed. However, to maintain some degree of standardisation in the system, educators are to ensure that they teach in ways that are consistent with the principles of C2005, i.e. those of learner-centredness, the promotion of critical and independent thinking among learners, etc. These requirements notwithstanding, there is a discernible difference in the ways educators in the different schools observed in this study approached the curriculum. Language was the key factor. While all the schools expressed, and manifested a commitment to C2005, the way they negotiated the terrain of language use in the curriculum contradicted its inclusionary intentions.

Clear examples of the problem around language occurred at former 'white' schools such as Eastdale, Oasis, and North City High, the former Department of Education and Training schools (former 'African') such as Basildon and at ex-House of Representatives (former 'coloured') and ex-House of Delegates (former 'Indian') schools such as Ruby and Lagaan. At Eastdale, the school adopted the attitude that parents wanted their children to learn English and so while it offered Xhosa as a second language, English was privileged throughout the school. At Oasis the approach taken was that English represented a commitment to 'standards'. At Basildon, as was explained above, learners who were not proficient in English were either excluded or enrolled in lower classes.

The most extreme example of structured language exclusion occurred at Ruby. Here Afrikaans was accepted as the norm by the school. While some of the educators were ambiguous about the introduction of isiXhosa, the school as whole was inflexible in its privileging of Afrikaans. Some parents also resisted the possible introduction of isiXhosa as a subject in the school. The case was the same with respect to English at Eastdale and Oasis.

The fact that most of the learners were non-English language mother tongue speakers made very little difference in each of the schools. Few of the schools made any effort to use the learners' first languages in a formative and affirming way. English was dominant everywhere. Signage was invariably in English, and sometimes in Afrikaans. Classrooms contained charts written in English (and a small number in Afrikaans). As a consequence of this, English was the dominant language at the schools. A learner's competence was invariably judged on his or her ability to write and read and speak English 'well'. Arising from this, or partly as a result of it, a large number of 'African' learners struggled at the school. Few excelled or achieved very high pass rates. This resulted in the structural exclusion of ESL learners in the school and the representation of achievement as a 'white', 'Indian' and 'coloured' characteristic. 'Africans' did not achieve academically nor achieve full participation in the lives of their schools. They were excluded from extramural activities, particularly debating contests and other speech-based activities that required fluency in English.

Interestingly, this structured exclusion was a process in which 'African' parents, educators and learners were often involved. At most of the schools, the parents made it clear that speaking English properly was the major motivation for sending their children to these schools. It was often 'African' educators who were the subject of their complaints and 'African' educators whose teaching competence they doubted. Learners were themselves not innocent bystanders in these processes. 'African' educators complained about the ridicule to which they were subjected by 'African' learners because of the way in which they spoke English and their 'African'-accented English.

Conclusion

The argument in this article is that the new reform policy of the state is directly implicated in the production and reproduction of the inequities that continue to operate within the system. This argument, it is recognised here, is controversial given conventional understandings that characterise the difficulties that the state is confronting with respect to 'integration' as arising from rearguard actions on the part of a reactionary 'white' public.

The argument that is being made is that policy, as a vehicle for promoting the democratisation process, in education and indeed in other social welfare spheres, is not directly confronting the abiding and discursively embedded artifices of race within the ways in which it is conceived and imagined, and then, fundamentally, operationalised. True as it may be that the broad society remains deeply marked by race, why, it is asked, cannot it be recognised that the other instances of social representation in society, such as the law and policy, themselves have to be engaged to deconstruct their own racial traces (as indeed they will have gendered, classed and a whole host of other traces)?

In education, the point is that corner-stone legislation, such as the SASA and NNSSF texts, not only reconstitute the basis of citizen choice and participation at the institutional site, they allow the institutional site to redefine the nature of citizenship and participation. They codify within them racialised possibilities that lie latent within these sites. The state, in constituting the sites as part of the state apparatus, constitutes itself, thus, as a 'loose' class, exercising power, but in a decidedly fractured way. This is the fundamental flaw in the decentralisation project of the new government.⁵

⁵ In this respect, there is also potential for conflict between the provincial and central authorities. This is taking place at the moment, in a low-grade way, between the National Department of Education and the Western Cape Education Department where the MEC in charge is a member of the New National Party.

The new relations of control and regulation set in motion by the post-apartheid state redefine the interaction between state at centre and provincial sites and civil society, and the forms of citizen participation that are possible. These interactions, critically, take place in two related, and possibly sometimes contradictory, ways. In the first instance, interactions are constructed and formed as state-individual relationships. Civil society through the SASA is atomised into discrete individuals who interact with the state at the institutional site. The atomised individual uses her/his new-found authority and responsibility to leverage maximal benefits from schooling. In the second instance, he or she, and this is the critical space provided by the process of decentralisation, is encouraged to mobilise, through the devolved authority structures granted by the state, others around him or her around what are considered to be 'best interests'. Unfortunately, there are few mechanisms available in the state⁶ to challenge notions of 'best interest' and the consequence is, as the Inclusion/Exclusion research shows, that schools work the law, as it is currently written, to avoid the engagement with exclusion that the law had intended.

Significant about the reform process is its origin in what one might call a rights-based framework. The reform process was deliberately constructed as a vehicle for 'catching' and then dealing with the evils of the past in a comprehensive strategy. The reforms sought to deal, simultaneously, with the challenges of the lack of participation, involvement, equality and other problems that came with apartheid. Problematic about the strategy, however, was that it did not, and still does not, address the problems of the past in both a specific and an articulated way. The result is that when the solutions – the reform measures – are taken to ground, they are not implemented in the comprehensive 'catch-all' way that they were intended to. Instead they are picked on by local stakeholders in a selective way. School governing bodies, for example, take those elements of the reforms they like, or, more cynically, which suit their interests, and drive the reforms with programmes which are about those parts of the overall strategy which suits their needs and interests.

In shifting power to the local site, the ability of the state to manage the reforms as a package is severely compromised and undermined. The effect of this is two-fold: it disguises and hides conflict where it happens, and, secondly, it fails to counter the racially encoded spaces inside the reforms.

What is needed if the system is to become an inclusionary one is a review of the procedures around the form of decentralisation that has come to exist. While it is important to safeguard the rights groups and individuals have, including the right to mobilise, even around narrow sectional interests, it is equally important that the system, in the first instance, recovers the capacity to hold individual schools to account, and in the second, coming from the other end, builds the capacity of the disadvantaged to participate more effectively within the system.

In terms of the first, it is important that the law and the policy derived from it is written in ways that expressly address the question of race. Arguably, what is called for is a policy framework and an appropriate vocabulary to go with it, where policy expresses itself *against* race. The argument here is that the non-racial state, defined as it is in the general language of human rights, is not yet an anti-racist state, and that this language is eminently subvertible in the governance frame of decentralisation. The process of subversion manifests itself through the re-racialisation of formal state processes, and yields, in the course of events, what one might describe as a racial state.

⁶ Significantly, the displacement of conflict does not imply that the state is absent. Instead, as noted earlier, the state fulfils a monitoring and evaluative role. The state creates statutory structures responsible for ensuring compliance with policy goals. The Commission on Gender Equality and the South African Human Rights Commission are two examples of structures that have the right to intervene in order to protect specific policy goals. However, they are often reactive rather than proactive structures.

The argument has been made in this article that the racial state is a state that lends itself, practically, to racial formation and racial practice. To prevent this, it is necessary to install a system of checks and balances that will moderate the unfettered power interest groups – such as the rich and racially defined communities – have over assets and property that essentially belong to the public. This could mean creating a decentralised system which situates the locus of authority and decision-making at one level above the individual community. Such a locus could be a consortium of communities. In this consortium it could be a diverse collection of schools that operate within a governance framework which is alert to the specificity of issues such as race, class and gender. Critically, however, this form of decentralisation would need to be underpinned by a policy framework that expressly, and not generally, specifies race (and class, gender, disability and so on) as a focus of its attention.

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