

# ACCOMMODATION AND CONSOLIDATION OF CONTROL: COMPETING PERCEPTIONS OF JUSTICE AND SOCIAL ORDER IN THE TAXI TRANSPORT INDUSTRY

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## 1. INTRODUCTION

During April 1999, a young woman from Guguletu, an informal settlement near Cape Town, was viciously assaulted and raped by ten mostly under-aged men living in the same area. She reported the rape to the local police station and two of the rapists were arrested, appeared in court, and were released on bail. The next day they were back on the crime infested streets of this impoverished squatter area. Though five of the other alleged rapists were living in the same community, they were not arrested and seemed to have escaped the police and the judicial system. Like most Guguletu residents, the woman then lived in fear of reprisal in a society unprotected from the activities of criminals and with the state conspicuously absent.

However, a growing number of formations, ranging from taxi warlords to vigilante groups and gangsters, vie with one another to occupy the space left empty by the state. They impose their perception of social order by protecting the community from criminals and providing justice through swift punishment and enforced retribution. They charge a modest fee, when compared to the huge cost of lawyers, and, importantly, involve the victims of the criminal act in the execution of justice. As a deterrent sentences are carried out in full view of the community. In Guguletu the minibus taxi industry is one such institution, and for many in this informal settlement the Eyona taxi rank has become a guardian of justice and order.

In a separate incident, during late March 1999, members of the taxi industry apprehended two alleged criminals. One died after being hanged by angry taximen assisted by community members. The other escaped death, but was savagely beaten by both taximen and victim. It is rare for anyone involved in such community justice to be prosecuted by the state. In fact, the two competing justice systems co-

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exist in the same community, but reflect divided and varying perceptions of equity and social order.

The Eyona taxi rank members imposed a justice and social order which, though guaranteed in the Constitution, the state cannot institutionalise. The alleged rapists were apprehended within hours and tied to a pole and, with their victim leading the assault, were savagely and publicly beaten. Often the process includes a formal meeting, popularly known as a kangaroo court, with suspects granted the opportunity of an explanation, including calling witnesses. In this case, however, no such procedure was followed and to add insult to injury, as far as the alleged perpetrators were concerned, the incident was later broadcast on national television as part of the SABC's Special Assignment program.<sup>2</sup>

This anecdote does not reflect an isolated incident, but is an example of a common phenomenon known as the community justice system. This system reflects the competing interests and perceptions of numerous communities with regard to justice and social order. However, it also provides fertile conditions for uncivil social behaviour and political contestation: the brutality of the crime is often matched by that of the punishment applied.

Among the social forces contesting the state's monopoly on social control, the minibus taxi industry is not only one of the most complex, but also one of the most successful. The apartheid state's inability to extend its tentacles of social control to the industry led to a proliferation of illegal activities and violence within the industry. During the 1980s, under the policy of deregulation, the state virtually abandoned the industry, allowing strongmen and taxi associations to manipulate the process of conflict resolution and regulation to suit their own interests. The absence of state-initiated regulation, and a statutory shift in responsibility for control from the state to the industry, led to the further proliferation of competing strongmen. During the last decade of the 1990s the absence of civil social contestation and statutory regulation culminated in disputes over lucrative routes and ranks being resolved through the use of enforced compliance and the presence of well-armed para-military hit squads.

The complexities of violence in South Africa, and more specifically violence in the minibus taxi industry, cannot be investigated on the basis of an economic reductionist or any other one-dimensional viewpoint. This article suggests that the unpredictable and conflictual nature of the minibus taxi industry should be analysed in its historical context and then in terms of the diverse relations that underly its

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2 Tuesday, 8 June 1999.

activities as a social and economic phenomenon. It will also be important to extend this debate to the precarious nature of the process of democratisation embarked upon in 1994. Thus it becomes possible not only to unearth the historical *raison d'être* of the taxi transport industry, but also to contextualise it as an important political and economic variable in discourse pertaining to democratic transition and consolidation.

## 2. THE THEORY

Much has been said about the meteoric growth of the black taxi industry as a segment of South Africa's boisterous informal economy and about its consequences for black economic empowerment. It is, however, politically that the radical proliferation of the industry reflects enough organisational adeptness to assert itself even outside the domain of the transport economy. The violence associated with the industry is often simplistically examined as either the social consequence of unfettered market forces or as the result of statutory deregulation, with, it is suggested, these forces at times even operating in tandem. Most liberal economists would find this a complete distortion of the dynamics of market forces as normally understood. This travesty of logic, as far as the demand and supply curve is concerned, is applied to the theory for reasons that have little to do with the unexpected disequilibrium of the market forces. The theory of amorphous and uncontrollable market forces should, in this case at least, be extended to include the presence of endemic and historical social ills and a hypothesis about a weak or dysfunctional state.

The industry's capacity to generate excessive violent social contestation certainly makes it a dominant contender for social control in post-apartheid South Africa. It functions, however, as neither a monolithic social or economic entity nor as a contender completely isolated from the state. The extent to which its activities are attached to local power struggles and social divisions makes it impossible to investigate as a homogeneous entity. Its relations with, among others, civic organisations, vigilante movements, organised crime, the business community (including large business conglomerates), and church groups represent the fragmented, web-like social fabric which Migdal explains as the antithesis of the notion of a civil society (Migdal 1996:91-105). Some of these formations are also attached to the state through a complex set of interpersonal relations, informal networks of patronage, and corporatist arrangements prevailing at virtually all levels of governance. These arrangements, especially those between the state and social formations that periodically resist the constitutional regime preferences dictated by the state, not only erode the autonomy and legitimacy of the state, but also inhibit the maturation (consolidation) of pluralist notions and conditions of democracy.

South Africa is widely considered to be in the process of consolidating its newly-found democratic rituals and practices, and, without elevating pluralism to a necessary and sufficient precondition for democratic governance, it remains important to ask whether the fabric and behaviour of South African society are compatible with the prerequisites of a civil society and liberal democratic governance (pluralism). Furthermore, does the state exhibit the institutional capacity (gained through successful state building) to succeed in drawing all contending forces into its domain of social control (related to effective nation building)? For it is only when the state succeeds in extending its sphere of influence to the economically and politically most peripheral, renegade, social formations that it can apply justice and social order evenly to all its citizens. And this is not only a prerequisite for effective nation building, but also addresses the prevalence of uncivil social contestation.

The initial hypothesis is that, with the appearance of numerous social contenders under the auspices of the liberation struggle, the responsibility for social control was wrested from the weak apartheid state. These social forces still operate within the democratic regime and ply their trade well beyond the normative and constitutional boundaries of consensus and compromise. Their regime preferences are deeply rooted in the authoritarian political economy that underpinned state-societal relations preceding the democratic constitution of South Africa.

### **3. THE SOCIAL AND ECONOMIC ORIGINS OF THE MINIBUS TAXI INDUSTRY**

The social and economic history of the relationship between urban and rural South Africa is as complex as it is diverse in its political and economic dynamics. It is virtually impossible to analyse this relationship in terms of an urban-periphery dichotomy, with rural communities being drawn into urban economies through the contradictory, but mutually dependent, conditions of rural poverty and urban prosperity. It is, however, possible that some politically demarcated rural areas had an established demography and supplied labour on demand to industrial mining houses, the service sector and the manufacturing industry. The next logical step would have been for labour to gradually recede from urban areas with a decline in demand. This would certainly have corresponded with the political interests of the newly-conceived apartheid economy of South Africa during the early 1950s. But, as we will see from the following discussion, numerous other variables entered this complex equation, further complicating, in particular, the state's interests in the matter.

In this regard, Bank argues that relocations from white commercial farms to bantustans occurred in the context of a rapidly transforming state-subsidised agricultural economy (Bank 1987:88). Apartheid was about mass social and economic engineering, facilitated through a range of segregationist state policies. These policies often created new political entities such as bantustans (also called reserves, later homelands), through the forced removal of black citizens from geographical areas reserved for the exclusive occupation of white South Africans. Bank estimates that in 1984 as much as 90% of the adult population of QwaQwa had lived in that homeland for a period of less than 15 years (Bank 1987:88). Inhabitants of QwaQwa initially had their roots in the agricultural economies of the Orange Free State and the neighbouring Western Transvaal,<sup>3</sup> often farming together with whites on the basis of sharecropping agreements.<sup>4</sup>

However, the apartheid state provided massive financial inducements to the white agricultural sector and stimulated a swift surge towards the mechanisation of farm production on white commercial land. This, again, led to an oversupply of unskilled labour in farming areas. The logical alternative for this surplus labour was to migrate towards the urban centres of the economy. However, that option was ruled out by the statutory constraints (influx control legislation) imposed by the state and aimed at controlling the migration of black labour. The poverty of the bantustans was left as the only alternative, and the state's interests in the matter criminalised those who attempted to escape the appalling conditions of the reserves.

It is important to note that, with the election victory of the National Party in 1948, urban South Africa had an oversupply of unskilled black labour, whereas commercial farmers were experiencing a severe shortage in this regard. With no political rights or education for black people, unskilled labour was abundant in cities, but semi-skilled labour was always a scarce commodity. Commercial farmers experienced fierce competition from urban-based industries for access to semi-skilled labour and, being an important constituency of the government of the day, they turned to the state to address their need for cheap, semi-skilled labour. Thus state interventionist policies, such as the imposition of influx control laws, were enacted in an effort to control the financial ramifications of unfettered competition between the industrial sector of the economy and commercial farming.

This process was coupled with changes in labour legislation directed at formalising state control over the recruitment of unskilled labour from the homelands through a system of government bureaux (Bank 1987:89). The new recruitment policies, and the oversupply of labour on commercial farms, provided the dual

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3 Later known as Northwest Province.

4. For an exhaustive description on this topic, see Van Onselen, 1996.

pressures that forced black South Africans into the impoverished conditions of bantustans, transit camps and settlement villages. However, this also meant separating labour from its permanent place of residence and created the need for an extended transport system to facilitate the mobility of contract workers between the bantustans and the urban economy.

These developments not only had a profound impact on South Africa's urban political economy, but also rearranged traditional systems of social control and conventional means of economic survival in rural areas. The already contracted capacity of the overcrowded bantustans to ensure economic survival was initially eroded and eventually destroyed by the segregationist policies of forced removal and the imposition of state-enforced land tenure laws. The dominant survival strategies of rural communities centred on access to land, which was often either in the trusteeship of traditional leaders, co-opted into the state's patronage networks, and whose authority was, consequently, progressively challenged, or manipulated by the state's land ownership policies.

With the accelerated mobility of migrants during the 1970s, rural communities gradually became susceptible to the commercialisation of traditional strategies of survival. Remittances from migrants and state pensions rapidly replaced subsistence agriculture and cattle production as the primary sources of income. Migrants working on extended contracts became alienated, not only from their land and traditional means of agricultural production, but, more importantly, also from their historical structures of social control. State influence in the "appointment" of traditional leaders had been a contentious issue in rural communities for years and the gradual erosion of traditional relationships of patronage led to the further dwindling relevance of traditional institutions of social control. But the state, predominantly responsible for this decline, failed to extend its boundaries of social order to the vacuum left by the delegitimisation of traditional authorities and the consequent instability entailing the realignment of patronage relationships. The middle ground between the family and authority became exposed, unstable and unpredictable. Rival contenders, who rejected traditional authorities and could successfully compete with the weak homeland state through the provision of alternative relations of patronage and survival strategies, congested this middleground. Strongmen (including those in the taxi industry), and a host of other social formations such as vigilantes, organised crime syndicates and youth movements against witches, operated in this middleground, establishing a network of relations within society and with the state. These relationships were aimed at influencing the process of policy formulation and providing institutional access to the state's resources and capacities.

In the 1980s, the rise of volatile resistance to the apartheid regime and a rapid growth in political challengers to the state's monopoly on social control saw the introduction of more repressive policies such as the notorious emergency regulations. However, in essence these repressive policies were, ironically, the logical consequence of the erosion of the bureaucratic control over the political economy of black South Africa. Increasing bureaucratic impotence and the inability of the state to nurture consensual loyalty to its rules and regulations compelled the state to accept the permanence of black labour in urban areas; but in retreat the state invested heavily in its coercive capacities, anxious to rigidly control the presence of urban black South Africans.

With a freer mobility of labour, mining contracts became less rigid. More frequent migration between rural areas and the urban labour market required a more flexible and regular transport system; but at this time, neither the state-subsidised transport system nor private transport could provide for the newly-conceived needs that these dramatic changes to the political economy of South Africa had brought about. Bank describes how migrants initially started lift clubs, while the more adventurous resigned their permanent employment and plunged into the unpredictable and highly competitive informal transport economy (Bank 1991:126). In a relatively short period the minibus taxi industry became a dominant feature of the country's transport industry.

#### **4. THE SOCIAL RELATIONS OF CONFLICT AND CONTESTATION**

The findings of the Welgemoed Commission of 1981 introduced an era of renewed attention to the taxi industry. Such coercive instruments as the police force, traffic authorities and the railway police were employed to compensate for the eroded organisational capacity of the apartheid state. The signs of numerous informal arrangements corrupting the autonomy of the state were evident, not only in the bantustans where people lived in abject poverty, but also in urban areas where the state's contenders for social control mobilised under the auspices of liberation politics. These informal relations (relationships of patronage) entailed bribery and corruption, providing, for example, mainly illegal roadworthy certificates and taxi permits. Lowly-paid officials found an additional financial survival strategy in corrupting state resources. The advantage for the taxi industry was that it could escape the draconian legislation of the apartheid state which impeded its activities and means of survival. These relations could not be sustained without an underlying social bond and were mostly built on family ties or close friendships. But, beyond that, the collective resistance to the apartheid regime often provided the cohesiveness which facilitated a growing dependency between black state officials and individual taxi operators and associations.

This social bond should be seen in the context of a state deliberately criminalising the survival strategies of a society subjected to deprivation and poverty. The state already lacked the legitimacy and authority necessary to enforce its rules and regulations; but its organisational capacity was now also penetrated by the regime preferences that prevailed in society. As the liberation movement gained momentum during the 1970s and 1990s, it became obvious that the social and historical relationships between low-level state officials and social formations were built on ties much more cohesive than the authority the state could impose on its employees.

However, opposition to the state did not necessarily imply a collective osmosis of interests among competing social formations and strongmen. In the bantustans the stronger taxi owners and associations were securing their interests by building relationships with the decision-making structures of homeland governments, and insisting, for example, that associations from outside the homelands be refused route permits. The struggle of licensed taxis against pirate taxis also gained momentum as lucrative routes became more congested and pressure on pirate taxis to pursue (illegitimate) social agreements with local authorities, allowing them access to routes, intensified. The stronger taxi associations already had corporatist policy agreements with the homeland states which would make it difficult for pirate taxis and associations from urban areas to operate in the bantustans.<sup>5</sup>

These homeland governments often had very little capacity to enforce these corporatist agreements and pressure mounted on taxi owners and associations to revert to "private agreements" with traffic officials and junior government bureaucrats. In 1984, Mobablaula, a QwaQwa-based taxi association, successfully reached agreements with what Bank calls "leading members of the traffic department". Rival associations made allegations of cash payments and access to vehicles and petrol allowances (Bank 1991:131) which had, quite probably, significant substance; but the home state was weak and gradually the practice became an accepted part of the fabric of the political relationship between the state and the industry. In return for these illegal "taxes", the bantustan state provided taxi associations with loading facilities and entrenched a monopoly for selected owners and associations in the rural migrant transport economy. These informal relationships, built on mutual trust and dependence, bound society and state institutions together. They granted privileged access to a few individuals and associations, and gradually eroded the state's autonomy to enforce a single set of rules for all individuals and formations within society. Homeland governments were never democratic in their behaviour, but these enforced relations thwarted whatever positive aspirations they

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5 See Bank (1991:124-41) for a case study in QwaQwa where a similar situation evolved.



may have had. They also led to the homeland state being corrupted and criminalised. And eventually, this criminalisation would become its most distinguishing feature, culminating in its eventual demise during the 1990s.

However, not all social relationships augmenting the presence and nature of the taxi industry were dubious. Some reflected the close-knit network of economic and social survival strategies that sustained community life in the face of state repression. Stokvels were one such phenomenon, providing participants, who often included taxi drivers, with the financial ability to purchase their own minibuses or to do major vehicle maintenance. Stokvels operate on the basis of honesty and reliability and members pool their resources on an equal, but voluntary, basis to provide for the lack of collateral when expensive purchases - from fridges and grave-stones to taxis - are made. They usually comprise members of a church, family or even a number of co-workers and, in South Africa, are estimated to collectively pool more than R500 million.

The social and economic relations that constituted and sustained the weblike structure of contestation in South African state-societal relations also went beyond the perimeters of the informal economy. Corporate South Africa, similarly, became tied down in relational interests which included financial kickbacks for taxi bosses and special economic arrangements to accommodate the rhythm and requirements of market forces. An important aspect of these risky relationships was that they often brought severe political consequences for corporate South Africa should it wish to withdraw from them. And secondly, corporate interests internalised some of the anomalies inherent in the taxi industry. The scope of this paper does not allow for an extensive discussion of this point, but it certainly provides for very interesting reflection on the relationship between the informal and formal economies of South Africa.

## **5. THE LIBERATION STRUGGLE, UNCIVIL SOCIAL CONTESTATION AND THE WEAK SOUTH AFRICAN STATE**

In urban South Africa the 1980s will go down as the decade of the collapse of institutional apartheid and the rise of militant state authoritarianism. When the state's administrative capacity for social control failed, it had no alternative but to enforce its ideological preferences through the utilisation of coercive apparatus. This failure was mainly due to the rise of a plethora of social formations (strongmen, vigilantes and gangsters), operating in poverty-stricken urban settlements, townships and squatter areas, successfully challenging the hegemony of the apartheid state. These formations often had common interests with the liberation movement, but could only exist as a consequence of the relations they had with

low-level state officials. During this time the probability of a collapse of the institutional capacity of the apartheid state became evident and violence as a means of social control became the only option left. However, states that resort to coercion to enforce their sovereignty and legitimacy are essentially weak, even when they have the military capacity to prolong their demise. Thus with the limitations of its institutional legitimacy effectively challenged, the South African government started to legislate for social control beyond the reach of its institutional capacity. Efforts to reinforce its control on rogue social formations included the spending of billions of rands on enlarging its coercive instruments. The apartheid state eventually showed obvious signs of crumbling under its own weight during the 1980s and when this, the most violent decade in South African politics, came to an end, negotiations were well under way for a new democratic dispensation.

The state's desire to legislate its opponents out of the political arena has a long history. Early in its more than forty years of rule, the Nationalist government<sup>6</sup> enacted legislation and bylaws to extend its authority to various formations outside its domain of social control. In the case of the taxi industry, these rules and regulations were, however, aimed more at protecting the monopoly of the state-sponsored South African Railways and the state-subsidised bus enterprises than normalising the relationship between the state and the rapidly expanding black taxi industry. A number of these measures resembled political and economic harassment rather than regulation of social relations.

In 1930 the Motor Carrier Transportation Act was passed which prohibited the transport of goods or passengers by road for reward without permission from the National Transportation Commission and from one of the ten local road transportation boards (LRTBs). The act guided authority for forty-eight years, until 1977, and gave LRTBs discretionary authority to arbitrarily grant, refuse or withdraw licences from taxi owners. In 1941 the act was amended to refer specifically to taxis, though they could hardly be described as an industry at the time. The minibus taxi phenomenon that would dominate the transport of migrants between bantustans and economic centres from the late 1970s onwards did not exist then and legislation was primarily aimed at sedan taxis which were permitted to carry five passengers at a time.

The enactment of the Road Transportation Act (No. 74) in 1977 now appears to have been a watershed as far as state intervention and control of the industry are concerned. It ended what Khosa (Khosa 1991:311) calls a period of repression

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6 It should be noted that the Nationalist government was not the first to impose rigid (discriminatory) statutory control over black South Africans: the pass laws were enacted by the Smuts government in 1946.

(1930-1976) and introduced an era of limited tolerance. The act, however, contained a rather ludicrous loophole since it did not define or even mention the word taxi (McCaul 1990:17), but only referred to buses and cars<sup>7</sup>. Minibus taxis avoided the stringent regulations applicable to buses outside the state's monopoly or patronage by leaving a number of seats empty and carrying only eight passengers. They were, however, still restricted by the bureaucratic requirement that prospective entrants to the market had to state their own racial classification as well as that of their passengers. Furthermore, they had to convince authorities that a need for additional transport existed on the envisaged route. As part of influx control policies a Daily Labourer's Permit (DLP) was also required. To qualify for a licence, the driver had to be legally resident in the urban area, be a registered tenant, and have a verifiable employment record. Needless to say, with all these bureaucratic tripwires, permits were rarely granted. Ironically, however, it was these statutory attempts to discourage taxi transport that would provide the impetus for the escalation of pirate taxis throughout the transport industry.

With the state having its own vested interests, it utilised the South African Railways Police to restrain the operations of its competitors in the expanding transport economy. During 1983, in an obvious effort to protect state-subsidised bus companies, the 1977 act was further amended to allow for the confiscation of the vehicles of illegal taxi operators. Many legal owners, who already found it difficult to avoid heavy fines and penalties, were now also forced out of the market. Shifting patterns of social control and the commercialisation of survival strategies in the bantustans, as well as new contractual agreements in the mining industry, demanded a fast, effective and frequent service to urban centres. However, the state-subsidised bus industry, with its set routes and high running costs, could not provide for these changes. With official pressure mounting on the taxi industry and its activities, and with increasing market-related demands, the alternative of operating outside statutory constraints became an obvious solution.

The hostile relationship between the state and black South Africans at that time already reflected dispersed social formations often related to the liberation movement operating outside the domain and influence of the state (usually penetrating the state through relations of patronage) and drawing it into corporatist type arrangements. Khosa explains how in 1985 the then Minister of Transport, Hendrik Schoeman, developed a working relationship with the Southern Africa Black Taxi Association (Sabta) and eventually compromised on official policy, granting, for example, 16-seater taxis operational permits (Khosa 1991:31). Through this corporatist type of arrangement control over the industry was effectively transferred to

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7 A bus was described as a vehicle that could transport more than eight passengers, and a car a vehicle that could carry up to eight.

Sabta. The association could now, among other functions, determine the number of permits issued by the LRTBs. In retrospect this was more than a compromise from the state; it was indeed the first sign of hegemonic surrender from a weakening regime. As with most corporatist arrangements, it granted selected social and economic formations, in this case Sabta, preferential access to policy-formulating forums. Rival contenders for state patronage consequently challenged this situation and Sabta was accused of selling out to the apartheid state. Activists in the liberation movement, as well as pirate taxi owners, found the new arrangement to their disadvantage. Pirate taxis were now further marginalised from the industry and the liberation movement feared that a significantly powerful constituency was operating outside its control and in alliance with the state.

The rise of strongmen in the taxi industry with loyal constituencies, operating at the interface between state and society, collecting revenue, providing strategies of survival and legitimising their activities through the provision of alternative social security measures in areas where the capacity of the state could be challenged effectively, further accelerated the fragmentation of social order, which was by then already a prominent feature of South African politics. While diverse in interests and organisational capacity, these formations were bound together by a normative code embedded in the principles of economic survival and political liberation. Aware of the fact that strong taxi associations were wresting control of the transport economy away from it, the state in 1981 appointed the Commission of Enquiry into Bus Passenger Transportation in the Republic of South Africa. The chairman, Dr Pieter Welgemoed, tabled his final report in June 1983 and recommended that the bus industry be protected from the "unfair" and "unhealthy" presence of minibuses. In an effort to regain lost control, the state, adopting Welgemoed's recommendations, drafted new legislation to define taxis as vehicles conveying no more than four passengers. Larger vehicles had to operate according to fixed timetables, routes and government-approved tariffs. Welgemoed, furthermore, recommended that minibuses be phased out over a period of three to four years. This was, therefore, not only an attempt to enforce state control over taxis and their operations, but also an attempt to eliminate them altogether and re-establish a state monopoly in the transport economy.

However, market forces, ironically, ensured the survival of the industry. During the 1980s the market share of private bus companies decreased by 39%, while the state-owned South African Transport Services (SATS) saw their share of the urban commuter market decline by as much as 13%. At the same time its rural services decreased by a staggering 76% (McCaul 1990:23-49; Khosa 1991:310). With its control over the industry effectively challenged and its share of the commuter market eroded, the state contemplated deregulating the industry it once

hoped to eliminate. The stronger taxi associations, however, would not approve of deregulation as new entrants to the market could threaten their, by now, well-established networks of patronage and control. With support from extra-parliamentary resistance, enough opposition was mobilised to force the state to shelve the idea. With no obvious alternative, the state gradually abandoned the industry and legislation was either never promulgated or simply ignored by the taxi associations and their drivers. To an extent the industry took control of itself, with disastrous consequences in terms of civil, social, and economic contestation. Violence erupted with hit squads armed with AK 47s patrolling lucrative routes and eliminating unwanted competition, while taxi ranks became sites of bloody guerrilla-style battles and drive-by murders.

## 6. CONCLUSION: THE POST-APARTHEID STATE AND ITS EFFORTS TO REGULATE AND CONTROL

Efforts by the post-apartheid state to resolve conflict in the taxi industry focus basically on two points. First, the state again is seeking to extend its realm of control over the industry through regulatory measures such as the registration of pirate taxis, the issuing of permits, effective control of taxi ranks (through a rank permit system), the promotion of a code of conduct, and the establishment of co-operatives.<sup>8</sup> Second, it is attempting to lure the industry into a corporatist compromise through a range of economic incentives such as training, improved facilities, subsidies and guaranteed access to tenders.<sup>9</sup>

Shortly after the 1994 democratic elections, the Minister of Transport, Mr Mac Maharaj, requested that a ministerial committee be created to investigate "the problems and issues within the taxi industry and to formulate solutions and/or policy options for recommendation to the National Minister of Transport". This would ensure the short and long-term sustainability of the industry, so that it could play an equitable and competitive role in an effective and efficient public transport system. The National Taxi Task Team (NTTT) was duly constituted and included nine representatives of the industry (one from each province), nine members of the various spheres of government, and nine specialist advisors. Gauteng Province, which has the most taxi associations, was later allowed an additional representative, bringing the number of representatives from the whole industry to ten.

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8 With government assistance five taxi co-operatives were established in the North West, Eastern Cape, Mpumalanga, Free State and Northern Province (leaving out the Western Cape, Northern Cape, Gauteng and KwaZulu-Natal).

9 In Gauteng, 20% of all route tenders are allocated to the taxi industry.

The volatility in the taxi industry, its importance as a part of both the formal and informal economy, and its capacity to occupy and contest the state's monopoly on social control and coercion, ensured that the strategic approach of the NITT included extensive terms of reference. These addressed economic sustainability, training, safety, infrastructure, labour relations, a land passenger transport policy, issues pertaining to metered taxis, and industry control. These were later reduced to three areas of emphasis: formalisation and training, regulation and control and economic assistance. Formal institutionalisation of the recommendations began in 1996 and by the end of September 1997 several processes and institutions were beginning to evolve. Taxi offices were established throughout the nine provinces and the registration of taxi associations with the provincial taxi registrars was underway. A registrars' administrative system (RAS) was established. Draft legislation of the Land Transport Bill was initiated. A code of conduct and constitution to reduce violence in the industry was developed; and a grievance procedure to regulate labour relations and disputes was introduced. Not all of these systems necessarily are operating with great effectiveness. During September 1999, in a drive-by shooting incident, taxi owners shot and killed two drivers who threatened to strike over a wage dispute. In Gauteng and the North West Province some systems of control are in evidence, but they have to replace a cultural network of embedded and historical relationships and still need to be consolidated while the role and participation of a plethora of stake holders is continuously negotiated.

The magnitude and fragmented nature of the industry do not allow for centralised bargaining and policy formulation. State initiatives are, therefore, aimed at decentralising its relationship with the industry to provincial and eventually local spheres of governance. The NITT's final recommendations suggest, for instance, that metro/regional, provincial and national taxi councils be established; but the process is still under way and the need for broad consensus among occupants of these offices makes it an elaborate process. The report also suggests that the positions be filled through an electoral process, with eligibility to vote being determined by the provincial registrar. However, provincial taxi offices have been established in all nine provinces and instructed to act as a secretariat for communication and liaison between taxi associations and provincial government, and to computerise and implement training programmes. Staff are paid by the state, but appointed jointly by both industry and the state. All primary associations must register with the provincial registrar. The curious use of the term "primary" is perhaps an indication of the problems experienced with defining and registering associations. It is well known that the number of taxis registered far exceeds the authorities' and the NITT's expectations.

Routes and taxi ranks are still fiercely competed for, with the stronger associations controlling the more lucrative routes to and from the metropolitan areas. Access to routes and ranks, and protection against rival owners, are the two most important facets of social control in the industry. It is these two aspects that merge the interests of associations and drivers in a relationship of mutual dependency. Associations protect their routes through well-armed hit squads that not only provide a safe environment for their own drivers but also exclude unwelcome competition. Owners pay a fee to "bosses" for services delivered and for the use of the ranks and routes of taxi associations. It is, therefore, important to belong to a strong association which provides security, rank facilities and lucrative routes, while the associations rely on their numerous regional affiliations to entrench their financial power bases within the industry.

Many smaller associations, which have no choice but to affiliate to bigger associations, would prefer to escape from this relationship because of the financial and regulatory demands made on them. Most drivers and owners questioned during a survey<sup>10</sup> at the University of the North expressed the belief that these are functions which the state and not the associations should provide. If the state could allocate routes, ranks and security, it would be possible to escape the financial burdens imposed by associations and eliminate the conflict and violence over routes. The suggested process of registration, therefore, provides a glimmer of hope that control of the industry will shift from taxi strongmen to the state. Many bosses, however, see proposed regulation by the state not only as a financial threat but also as a danger to their control of the industry and their power structures. They are aware of the flood of smaller associations and owners who could escape from their patronage. The problem with the huge escalation in registrations from the initial number expected is also due to growing pains with implementation, such as the fact that some provinces (notably the Western Cape) have waived the requirement that registrants should provide evidence of operating as an association for a specific length of time. The initial phase of implementing state control was then also marred by an increase in violence in the industry. But this seems to have declined steadily since 1998.

While the apartheid state endeavoured to resolve conflict in the taxi industry through deregulation, the new democratic state is seeking a solution by applying strict rules and regulations to the industry's activities, while at the same time institutionalising a process of co-operation. The state is striving to regain responsibilities it once devolved and hopes to re-establish control over the industry. Clearly, the solution lies partly in the state successfully extending its corporatist interests and

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10 The survey was conducted by the Department of Political Science (1997 – 1999).

patronage to the industry, and in exchange the industry accepting the regime preference dictated by the state and the Constitution. It may well be contrary to the pluralist perceptions of democracy prevailing in the Constitution, but it will provide stability and an opportunity to civilise social relations within the industry. But, like old habits, established relations are hard to undermine and even harder to destroy. Relations of patronage must be replaced by more efficient and feasible alternatives. The state must develop a capacity to provide the survival strategies currently guaranteed by prevailing social relations, thereby incorporating renegade constituencies into its domain of social control. It will not help simply to buy the loyalty of dominant social formations or to impose state preferences through coercion. These were the failed strategies of the previous regime.

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