

# **South Africa's Muslims between participation and exclusion – the political role of a religious minority during the transition to democracy**

by

**Dr. Inga Niehaus**

**University of Hamburg**

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## **Introduction**

South Africa's transition to democracy had an enormous impact on all social, religious and ethnic groups in the country, defining or rather re-defining their political role within a changing order. Minorities like the Muslim community transformed radically from being a primarily apolitical religious community to becoming more socio-political active.

The paper presents the empirical results of a research project based at the University of Hamburg, Germany, which was carried out in South Africa between 1999 and 2003. The project investigated the social and political role of Muslim groups during the transition period. It focused on the main Muslim organisations and their contribution to democracy.<sup>1</sup>

Leading questions were: whether and how Muslim groups participated in the struggle against apartheid and the democratisation process, how they justified their position religiously and in which way political ideologies influenced them.

The results of the research present a diverse picture of Muslim political participation in the transition process. The paper argues that participation strongly depended on religious, social and cultural background as well as ideological conviction. The political position Muslim groups took in the anti-apartheid-struggle informed their attitudes regarding the democratisation process. Those Muslim groups who had contributed to the dismantling of apartheid and had experiences with alliances with a variety of civil society organisations engaged themselves easily with the new political institutions. Others who had propagated a “purely Islamic struggle” against the apartheid regime found themselves again in the opposition when the new government came into power and they continuously question the legitimacy of a secular political system.

The paper is going to focus on different aspects and processes of Muslim political participation during the transition. Firstly, Muslim political participation during the struggle against apartheid. Secondly, Muslim contributions to the negotiations process and

submissions to the Constituent Assembly in the early 90s. Thirdly, the Muslim stand in the first democratic elections. Fourthly, Muslim involvement in the legalizing of Muslim Personal Law and last, the Muslim opposition to the newly elected government. The paper concludes by portraying the various scenarios of the future of Muslim political participation in South Africa as well as the lessons other countries can learn from the South African experience.

### **The socio-political role of Muslims during the struggle against apartheid**

In the early 1980s the resistance to the apartheid-regime grew rapidly and embraced almost all social groups which were oppressed.<sup>2</sup> This development led to an increasing political mobilisation and involvement of Muslims who until then had shown little interest in political participation as long as they could exercise their religious duties freely.

On the one hand existing Muslim organisations experienced a religious and ideological change of direction and on the other hand new Muslim groups emerged with clear political aims.<sup>3</sup> The stand Muslim organisations took in this period was strongly influenced by the political ideologies which were presented by the major secular resistance movements at that time.<sup>4</sup> This was not due to a lack of Islamic identity but rather a necessity to respond to the socio-political reality Muslims were confronted with in their communities, their schools and universities and their work places. Certain key events contributed to the mobilisation of Muslims, particularly the school boycotts in the early 1980s and the election for the tri-cameral parliament in 1984. The schools boycotts which started in black, coloured and Indian schools at the beginning of 1980 mobilised a large number of Muslim students who engaged in the wider resistance movements which were present in their communities. The elections for the tri-cameral parliament marked a turning point since Muslims were challenged to choose between co-operation with the regime and defiance which had political and social implications for the community.<sup>5</sup> In this phase political and religious identities often merged which led to polarizations within and among Muslim groups.

Without exception Muslim organisations and institutions rejected apartheid since it violated against the Islamic principles of justice and equality but only a minority was willing to actively get involved in political activities. Especially the conservative regional *Ulama*-bodies showed reluctance to engage in politics in fear of harming their relationship with the government which secured their economical and socio-political status quo.<sup>6</sup>

Those Muslim groups who engaged themselves in the struggle identified a common “enemy” but dissented strongly on how to get involved in politics and how to legitimize their stand religiously.<sup>7</sup> The question whether to affiliate to secular political organisations or organise a

separate Islamic resistance movement was the most controversially debated issue within and among Muslim organisations, making it impossible to find common ground<sup>8</sup>:

“There is no extensive religious document, theological or judicial, which discusses the validity of a Muslim alliance with the UDF or any other group. What there is, is an abundance of statements and counter-statements among groups ranging from the ultra-conservative to the militant and radical, arguing for and against alliances with non-Muslim groups [...]” (Tayob 1990: 32).

Differences were often used by one Muslim organisation to gain hegemony over the other and to speak for the whole Muslim community representing the allegedly “authentic Islamic position” (Niehaus 2005). A dialectical relationship evolved between ideological conviction in a particular socio-political situation and new hermeneutical approaches in the interpretation of Islamic text leading to what was called a “contextual” understanding of Islam which challenged the leading conservative-orthodox interpretation of Islam.<sup>9</sup> The inner changes within Muslim organisations and the form of political participation they opted for have to be seen in the context of the causal relation between socio-economic status, political conviction and interpretation of Islamic text.

The different religious and ideological positions of Muslim groups influenced their political role in the new South Africa profoundly. Decisive for the support or rejection of the democratisation process in the early 90s were the visions and ideals of Muslim organisations regarding a political dispensation after apartheid. Those who strived for an Islamic state found it difficult to accept the prospect of a liberal government which would not correspond to their religious convictions.<sup>10</sup> Other groups who had adopted a contextual approach were able to identify with the transition and key persons soon became part of the political elite trying to overcome the legacy of apartheid.<sup>11</sup>

### **Muslim contribution to the negotiation process and submissions to the Constituent Assembly**

The negotiations which began in 1991 made it possible for a wide range of civil society organisations to participate in newly created political processes to raise their demands and concerns regarding a future government and constitution (see Horowitz 2001). The majority of Muslim organisations took up the opportunity to lobby for the Muslim community by taking part in the inclusive participatory processes and influence political decision makers. A minority though was sceptical with regard to the negotiations out of ideological convictions or Islamic belief.<sup>12</sup>

The writing of the constitution was the most inclusive process where a draft was published at the end of 1995 with the opportunity for public submissions.<sup>13</sup> Muslim organisations and individuals made extensive submissions on various themes. Summarizing the themes, most submissions were concerned with one of the following issues: The call for a re-introduction of the death penalty, the criminalisation of abortion, pornography, and homosexuality as well as gambling.<sup>14</sup> Those issues were also raised by other conservative social groups and institutions like various Christian churches and were dealt with by the Constituent Assembly (Ebrahim 1998: 244, 246).

But the major concern of Muslims was the protection and legalisation of Muslim Personal Law, demanded by almost all Muslim groups in their submissions. The right to establish a system of personal and family law was already part of the clauses of the Interim Constitution which were legally binding for the new constitution.<sup>15</sup> Besides the latter aspect none of the other demands were acknowledged by the final constitution and left to the future legal processes. The political decision makers agreed on a constitution which became one of the most liberal in the world. The dilemma is now whether the government is able to mediate between far-reaching civil rights for all social groups based on equality on the one hand and special religious rights of particular minorities on the other hand.

### **Muslim stand in the first democratic elections – to vote or not to vote**

In the first democratic elections of 1994 the Muslim community focused on their own election campaign: various organisations embarked on voter education and public campaigns to either convince Muslims to vote for a secular or Islamic party or to call for an election boycott, like the organisation Qibla.<sup>16</sup>

Two Islamic parties were founded before the 1994 elections: the Islamic Party, which stood for elections only in the Western Cape Province and the African Muslim Party which took part in the national elections. Both parties represented the predominantly conservative sectors of the community and demanded a return to the traditional values and norms of Islam and the criminalisation of abortion, gambling and prostitution. The formation of the two Islamic parties was received with ambivalent reactions by Muslim groups. The progressive organisations like the MYM and the Call of Islam criticised the Islamic parties and called on Muslims to vote for “the former liberation movements” and to integrate into the wider society.<sup>17</sup> The Jamiatul Ulama Transvaal and Natal emphasised that it would be the best for the religious interests of the community if a single Muslim party would exist.<sup>18</sup> But when the Africa Muslim Party was founded shortly before the elections the Jamiatul Ulama Transvaal

distanced itself from the party criticising that it was formed without consultation of the Muslim community.<sup>19</sup> On the other hand the secular parties competed with each other to get the Muslim votes by stressing in which way their party programme corresponds with Islamic norms and values.<sup>20</sup> Since Muslims were divided regarding their voting choices conflict increased in the communities leading often to fractions within families.<sup>21</sup> In an attempt to streamline the voting attitudes Muslim organisations formed the “Muslim Forum on Elections” which brought together over 30 groups. The declaration the forum issued did give same guidelines to Muslims what to consider when voting:

“When voting, choose wisely and according to your conscience and be mindful of the hopes and aspirations of the poor and oppressed in our country. Also remember the history of those who have perpetrated gross injustices against our people. Support those who have a history of struggle for justice and the upliftment of the masses of our people.”<sup>22</sup>

In the end most Muslims took part in the first democratic elections in 1994 and regarded it as their civil duty to contribute towards a new political system. The majority of Muslims voted for the secular “mainstream parties”, which were either the National Party or the African National Congress.<sup>23</sup> The two Muslim parties which were standing for elections got only minimal support and did not reach enough votes to be represented in Parliament.<sup>24</sup> Reasons of the failing of the Islamic Parties are manifold. The parties did not have enough time to consolidate themselves before the first elections and especially the Islamic Party was torn apart by inner frictions and change of leadership. Therefore the trust in these parties was broken.

The results showed clearly that Muslim votes were not religiously motivated but rather influenced by ideological affiliation and party programmes. Also the 1999 and 2004 elections did not bring up any Islamic party and which is an indication that the voting pattern of Muslims are consolidated.

### **Muslim contribution to the Draft Bill on “Islamic Marriages and Related Matters”**

The most important area of Muslim involvement in post-apartheid-South Africa was certainly the legalisation of aspects of Muslim Personal Law (MPL). The issue is not new to South African Muslims. MPL was widely practised before the transition by Ulama-bodies who conducted Islamic marriages, decided on divorces and maintenance. This informal system operated outside of the formal legal sphere but ensured a life according to Islamic norms and rules. Not being legalised MPL presented a problem to the new government and the Muslim community: Islamic marriages were not acknowledged and children were born out of wedlock

which had implications for inheritance and custody cases. The new government was therefore challenged to integrate MPL into the legal system.<sup>25</sup> For the Muslim community it was not only an issue of gaining legal security but also to pursue a “politics of recognition” by ensuring that their religion and traditions will be appreciated and respected by the rest of South Africa:

“The long struggle of Muslims for the recognition of their marriages and legal system is much more than a struggle to overcome these disabilities and anomalies; it is an expression of the assertion of Muslim identity, of which Islamic law is an integral component.” (Cachalia 1991: 23).<sup>26</sup>

During the political transition, law experts set out models of how MPL could be integrated into the civil law system (Cachalia 1991) while the ANC met with representatives of Muslim organisations from 1993 to discuss the introduction of MPL. When the government came into power it tried to include as many role players as possible to ensure participation from the Muslim community and it established the “Muslim Personal Law Board”. Due to theological and ideological differences of the Muslim actors present, the Board was unable to find consensus and had to be dissolved. The most contested issue was whether to subjugate MPL under the other clauses of the constitution as the progressive organisations demanded or to exempt MPL from the regulations of the Bill of Rights as the conservative representatives argued (Moosa 1997: 139f.).

In 1997 the South African Law Commission established a “Project Committee” which consisted of legal experts of civil and Islamic law to work out a draft bill for the legalisation of aspects of Muslim Personal Law. The Project Committee commenced its work in March 1999 and in May 2000 it published an Issue Paper which already stated in the introduction, that “of greatest concern for any legislation recognising aspects of Muslim Personal Law is the compatibility of such legislation with the Bill of Rights as a whole, but particularly its compatibility with the guarantee of equality”.<sup>27</sup> The document raised more general concerns of how to legally secure future and already existing Islamic marriages, how to deal with polygamous marriages and divorces. The Issue Paper suggested the appointment of so called “marriage officers” who should register the Islamic marriages and divorces to make them legally binding, but it did not indicate who could become a marriage officer and whether the Ulama could be included.<sup>28</sup> The publication of the Issue Paper followed a period of public participation by asking for submissions on the document and later on the Discussion Paper 101 which had a Draft Bill attached.<sup>29</sup> Besides written submissions public consultations with the Muslim community and representatives of various Muslim organisations took place during that period reaching a wide sector of the community.<sup>30</sup> The submissions reflected the diversity

of Muslims' visions for their legal status in the new South Africa: while progressive organisations acknowledged the compromise in the Draft Bill, the conservative bodies demanded an exemption of MPL from other aspects of the constitution, especially the equality clause.<sup>31</sup> The Ulama-bodies criticised the approach to change Islamic law in a way to "suit" the constitution: "It is not possible for legislation to recognise a religious system and then attempt to change it. Any changes to a religious system or to the laws of the religion necessarily create a different regime which is foreign to the religion itself".<sup>32</sup> Their far reaching requests to implement separate Shari'a Courts and an independent system of Islamic law were not met.<sup>33</sup> The South African Law Commission rather seeks to codify MPL within the Bill of Rights and controlled by the civil courts which have the ultimate sovereignty over legally accepting Islamic marriages and divorces. In the eyes of many Muslims the dilemma is to accept a liberal constitution written by human beings and at the same time to be loyal to Islamic principles which are based on an unchangeable religious text originating from God. With the Draft Bill waiting to be ratified by parliament only the future legal processes of ruling on aspects of MPL will show how exactly the two legal systems can be combined and where there will be areas of conflict. Nevertheless, it became already visible during the process of working on a Draft Bill for the implementation of Islamic law that the South African Government chose the moderate Muslim groups as their allies and marginalised those conservative and Islamist voices within the Muslim community which challenged the validity of the constitution for the Muslim community.

### **Muslim opposition to the new government: the rise and fall of Pagad**

The post-apartheid era not only experienced the above mentioned inclusive, participatory processes of Muslim political involvement but also opposition to the new government which became most visible in the rise and fall of the vigilante group People against Gangsterism and Drugs (Pagad). Although Pagad represented only a minority group within the Muslim community it influenced the public image and the relationship of the minority with the government fundamentally. For some, Pagad was a radical group which used the perceived inability of the state to combat crime for their own Islamist aims. Others regarded the vigilante group as a necessary civic initiative to demonstrate against crime and lawlessness (Le Roux 1997: 51). Much had been speculated about who exactly is Pagad and which direction it took.<sup>34</sup> However, it is certain that the sensationalising media, the inconsistent responses of the government and police, discourses within the Muslim community and

internal power struggles contributed to the negative public image and the radicalisation of the vigilante group.

The predominantly Muslim organisation made its public appearance in 1996 demonstrating against increasing crime in their communities in the Western Cape and had mass support from the local Muslim community.<sup>35</sup> Initially the organisation presented itself as a “multi-religious” civil society organisation striving to eradicate crime in their communities by petitioning the government, informing the community and peacefully demonstrating.<sup>36</sup> The public rhetoric and symbols and terms Pagad used on the other hand showed a clear Islamic orientation (Tayob 1996: 24). Already in the second half of 1996 an internal power struggle became visible within the organisation between moderate members and supporters of Qibla, a radical-Islamic group which had opposed apartheid. The Qibla fraction eventually took over the leadership and transformed the organisation into a sophisticated radical group which challenged the legitimacy of the government by using illegal, often violent forms of political involvement.<sup>37</sup> Targets were not only criminals and drug lords but also representatives of the state. Besides criminals, a Pagad leader identified two new enemies of the organisation: “political gangsters”, those who support the legalisation of prostitution and abortion and “religious gangsters”, those who act against the “unity of Muslims and the oppressed”.<sup>38</sup> The response of the government to Pagad was ambivalent: on the one hand the former Minister of Justice, Dullah Omar, undertook various attempts to initiate a dialogue and mediate between Pagad and the government. On the other hand radical Pagad members announced a “holy war against the police” when a Pagad demonstrator was killed by the police during a march.<sup>39</sup> The government, concerned about Pagad claims that they had support from the Hisbullah in Lebanon charged the organisation with sedition, but the case had to be dropped for lack of proof.<sup>40</sup> The police was increasingly unable to stop the violence out of lack of resources and Pagad continued despite warnings to organise illegal marches which ended in violence. The government ultimately stopped the talks with Pagad (Le Roux 1997: 69). At this stage the Ulama, who until then had not publicly criticised Pagad, distanced itself strongly from the vigilante group claiming that their conduct was “unislamic” and violates Islamic law.<sup>41</sup> When the house of the University Professor and Pagad-critic Ebrahim Moosa was petrol bombed in July 1998 the Ulama and other Muslim organisations strongly condemned Pagad and demanded that the organisation should suspend all activities.<sup>42</sup> But the spiral of violence continued and escalated at the end of the 1990s with numerous bomb blasts and attacks attributed to Pagad.<sup>43</sup> To confuse matters even more allegations came up that the police infiltrated informer into the organisation who very responsible for acts of terror.<sup>44</sup> The



government responded with the criminalisation of the organisation and by the end of 1999 more than 100 Pagad members were charged and numerous court cases initiated which in the end lead to the demise of the organisation.<sup>45</sup>

By 2000 the vigilante group was almost invisible having lost large numbers of supporters through negative media reporting, persecution by the government and internal fractions. Nevertheless, the movement has had a strong impact on the public perception of the Muslim community and its relationship with the state. It portrayed a radical Islam which can mobilize those sectors of the Muslim community disillusioned with the shortcomings of the transition and challenge the stability of the new government. “Islamic fundamentalism” was in this context promoted by the police and the media who “placed religion at the centre of their analyses, failing to recognise it for what it was – an organising principle for vigilante action” (Shaw 1996: 7). Furthermore, it created an atmosphere of fear and intimidation within the Muslim community which made it difficult for Muslims to engage in open and critical discourses and debates to define their role within the new South Africa.

### **The future of Muslim political participation**

Like any other religion, Islam in South Africa has the potential for being both, a force for peace or conflict. Muslim organisations in particular contributed to revoke what is called the “religious illiteracy” and to educate its members in a modern reading and interpretation of Islamic text which revised the orthodox religious hegemony. This led to a diversification of religious thoughts and the development of a truly “South African Islam” which promotes an active role of Muslim groups within society.

Secondly, through Muslim associations the degree of organisational structure within the religious community was increased. Both are preconditions for a peaceful and constructive role religion can play within society and politics.<sup>46</sup>

Through their involvement in the transition process the Muslim community does have the experience of dialogue, participation and co-operation with non-Muslim sectors of the society. But the community needs to go beyond its own borders, restricted spaces and confined discourses to become a vital part of a larger civil society. Discourses like the one on the implementation of Muslim Personal Law could be combined with political debates around the legalisation of traditional rights which affect large parts of the South African population. The protection of cultural, religious and linguistic communities as secured by the Constitution creates furthermore public spaces and political processes where Muslim representatives are able to liaise with other minority groups to improve their political position and lobby for

common goals. Within the Muslim community tendencies are becoming visible to participate in wider social movements. One example is the organisation “Positive Muslims” which was founded in 2000 to give support to Muslims living with HIV/Aids. This organisation closely works together with national and international Aids organisations.

Two factors will determine the future of Muslim political participation in South Africa: firstly, the dynamics and complexity of the relationship between the state and the Muslim minority and secondly, the discourses within the Muslim community regarding political participation. Should the government be able to include Muslim groups by creating special forums and representative institutions which would give Muslims a voice and the experience of change, a constructive relationship could be established. This would furthermore strengthen those progressive forces within the Muslim community who promote a tolerant, flexible and modern Islam and envisage a constructive and active political role for the minority. If, on the other hand, Muslim voices are being continuously marginalised and no improvement of their political, social and economical status is visible, sectors of the Muslim community could “disengage”<sup>47</sup> from society to seek refuge in tradition and religious practices which suggest stability and orientation in a society which is still in transition. Partly, this development became apparent during the democratisation process but was seen as a temporary phenomenon to re-establish and re-affirm the role Muslims should play in the new South Africa. In the extreme case the exclusion of Muslims could also give rise to radical Islamist groups who are able to mobilise the disillusioned sectors of the community against the state which was visible with the emergence of Pagad.

Taking into account that the path has already been paved for a constructive relationship between the government and the Muslim community the first scenario seems to be more likely to determine the future of Muslim political involvement.

South African Muslims did not form a unified collective identity pursuing a “politics of recognition” (Taylor 1992) to secure their status in the new South Africa. Rather, the process of recognition was an internal discourse of competing narratives of various groups claiming to represent the “authentic” Islamic position. The Muslim community did only form a collective in particular situations when it needed to secure special rights and its status in the new South Africa. But common initiatives soon collapsed due to irreconcilable differences as the process of implementing MPL showed. But the absence of a unified community is not only a weakness but also a chance: inner differences can be discerned and acknowledged leading to greater tolerance and the various Muslim groups are able to affiliate with numerous civil society movements outside of their religious community.

Last but not least the South African experience of how to secure Muslim minority rights within a secular and pluralist political system can be a model for other countries, especially in Western Europe. After decades of failed integration policies most European countries are experiencing a crisis in the relationship with their specific Muslim minorities which led to a rise of radical Islam and the end of any meaningful dialogue.

The Muslim community in South Africa can therefore play an important role in the international discourse on Muslim minority rights relating their strategies and experiences in securing special religious rights and engaging with the wider civil society. This can happen through the extension of trans-national networks and a more structured exchange with Muslim organisations and institutions in the Diaspora.

## Literature

- Baker B, *Escape from Domination in Africa. Political Disengagement and its Consequences*, Oxford/New York, 2000.
- Cachalia F, *The Future of Muslim Family Law in South Africa. Centre for Applied Legal Studies*, University of the Witwatersrand, Occasional Paper 12, August 1991.
- Carrim Y, Minorities Together and Apart, in James, W, Caliguire D & Cullinan K (ed.): *Now that We Are Free. Coloured Communities in a Democratic South Africa*, (IDASA), Cape Town, 1996, pp 46-51.
- Dixon B & Johns LM: Gangs, Pagad & the State: Vigilantism and Revenge Violence in the Western Cape, *Violence and Transition Series*, 2, May 2001 (online-Version: [www.csvr.org.za](http://www.csvr.org.za)).
- Ebrahim H, *The Soul of the Nation: Constitution-Making in South Africa*. Cape Town, 1998,
- Esack F, Contemporary Religious Thought in South Africa and the Emergence of Qur'anic Hermeneutical Notions, in: *Islam and Christian Muslim Relations*, 2 (2), 1991, pp 206-226.
- Esack F, *Qur'an, Liberation and Pluralism*, Oxford, 1997.
- Esack F, Three Islamic Strands in the South African Struggle for Justice, *Third World Quarterly*, 10 (2), 1988, pp 473-498
- Hasenclever A, *Geteilte Werte – Gemeinsamer Frieden? Überlegungen zur zivilisierenden Kraft von Religionen und Glaubensgemeinschaften*, in Küng H & Senghaas (eds), *Friedenspolitik. Ethische Grundlagen internationaler Beziehungen*, München/Zürich, 2003, pp. 288-318.
- Horwitz, R B, *Communication and Democratic Reform in South Africa*, Cambridge, 2001.
- Houston, G F, *The National Liberation Struggle in South Africa. A Case Study of the United Democratic Front, 1983-1987*, Aldershot et al, 1999.

- Johnson R W & Schlemmer L, *Launching Democracy in South Africa. The First Open Election, April 1994*, New Haven/London, 1996.
- Le Roux CJB, People against Gangsterism and Drugs (Pagad), *Journal for Contemporary History*, 22 (1), 1997, pp 51-80.
- Lodge T, Rebellion: The Turning of the Tide, in Lodge, T , Nasson B & Mufson, S et al., *All, Here and Now: Black Politics in South Africa in the 1980s*, Cape Town, 1991, pp 23-206.
- Moosa E, *Application of Muslim Personal and Family Law in South Africa. Law, Ideology and Socio-Political Implications*, Cape Town, MA Thesis University of Cape Town, 1988.
- Moosa E, Muslim Conservatism in South Africa, *Journal of Theology for Southern Africa*, No 69, 1989, pp 73-81
- Moosa E, Prospects for Muslim Law in South Africa: A History and Recent Development, in Coltran, E & Mallat C (eds.): *Yearbook of Islamic and Middle Eastern Law*. Vol. 3, London, 1997, pp. 130-155.
- Moosa N, The Interim and Final Constitutions and Muslim Personal Law: Implications for South African Muslim Women, in *Stellenbosch Law Review*, 9 (2), 1998, pp 196-206.
- Niehaus I, *Südafrikas Muslime im Spannungsfeld zwischen Inklusion und Exklusion. Politische Partizipation einer religiösen Minderheit im Demokratisierungsprozess*, Ph.D. Dissertation, University of Hamburg, 2005
- Shaw M, Bying Time? Vigilante Action, Crime Control and State Responses, *Crime and Conflict*, No.7, Spring 1996, 5-8.
- Spitz R & Chaskalson M, *The Politics of Transition. A Hidden History of South Africa's Negotiated Settlement*, Johannesburg, 2000.
- Taylor C, *Multiculturalism and the Politics of Recognition*. Princeton, 1992.
- Tayob A, Muslims' Discourse on the Alliance Against Apartheid, *Journal for the Study of Religion*, 3 (2), September, 1990, pp. 31-47.
- Tayob A, *Islam in South Africa. Mosques, Imams, and Sermons*, Gainesville, 1999.
- Tayob A, *Islamic Resurgence in South Africa. The Muslim Youth Movement*. Cape Town, 1995.
- Tayob A, Muslim Personal Law – Women's Experiences and Perspectives, *Centre for Contemporary Islam: Annual Review of Islam in South Africa*. Issue No.6, December 2003, pp 30-34.

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<sup>1</sup> More than 40 interviews were conducted with representatives of Muslim organisations, Muslim politicians and experts. The organisations investigated included the Muslim Youth Movement (MYM), the Muslim Students Association (MSA), Call of Islam, Qibla and the Muslim Judicial Council (MJC). The research focused mainly on the developments in the Western Cape but brought it into context with the national discourses of Muslim political participation during the transition.

<sup>2</sup> Two developments led to the increasing resistance to the apartheid regime: firstly, the deep economical crisis accompanied by high unemployment and inflation and secondly, the "reform programme" of the government

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which was supposed to re-establish political legitimacy but which unintendedly gave rise to a wide spectrum of resistance movements (Lodge 1991)

<sup>3</sup> Muslim organisations in this period took three different standpoints: 1) Muslim organisations and institutions who were religiously-cultural orientated and abstained from political activities; 2) Muslim groups who propagated an “Islamic struggle” against the regime to achieve the establishment of an Islamic state in South Africa and 3) Muslim organisations who engaged actively with the broader resistance movements and affiliated to secular organisations (see Esack 1988, Tayob 1990, Günther/Niehaus 2002a and 2002b).

<sup>4</sup> The major resistance movements in the late 1970s and early 1980s were the African National Congress, the Pan Africanist Congress and the Black Consciousness Movement (see Esack 1988). While the ANC and PAC acted from exile, the Black Consciousness Movement had a strong presence within South Africa. A paradigm change took place with the founding of an umbrella body, the United Democratic Front, in 1983 which popularised the ANC and facilitated the infiltration of ANC-cadres into the country (Houston 1999: 53).

<sup>5</sup> Tayob (1995: 162) argues that the resistance to the introduction of the tri-cameral parliament was a “catalysator” for the MYM to join the arena of political activism.

<sup>6</sup> Regarding the ambivalent role of the Jamiatul Ulama Natal and the Muslim Judicial Council see Moosa 1989: 75 and Niehaus 2005. Tayob (1999) argues that the Ulama profited considerably from the apartheid system and had economical and political ties with the regime which made it difficult for them to get politically involved.

<sup>7</sup> While the Call of Islam openly sympathised with the ANC and affiliated to the UDF, Qibla pursued a separate “Islamic struggle” against the regime and the MSA and MYM opted for a position of “positive neutrality” which meant the organisations were politically neutral but could get involved in activities any anti-apartheid-group organised (see Tayob 1995; Esack 1997).

<sup>8</sup> Even within Muslim organisations like the MYM ideological differences became visible especially between the more conservative branches in the former Natal and the former Transvaal and the politically active branches in the Western Cape which were pressing the organisation to join the struggle (see MYM, *Towards the Contextualisation to the M.Y.M.S.A.’s Aims and Objectives*, no year).

<sup>9</sup> According to Farid Esack (1991: 214) “contextual Islam” was born out of a deep frustration at the quietism and collaboration of the Ulama seeking a socially and politically relevant position for Islam in South Africa.

<sup>10</sup> Achmet Cassiem, founder of Qibla and later chairperson of the Islamic Unity Convention, called for an election-boycott in 1994 and 1999 and still questions the legitimacy of the new government.

<sup>11</sup> Among those is for example Ebrahim Rasool, former member of the Call of Islam, who is now Premier of the Western Cape Province.

<sup>12</sup> *Qibla* rejected any negotiations with the old regime (see Cassiem A, Talking Plainly, *Al-Qalam*, 18 (3), March 1992) and the Muslim Youth Movement regarded the negotiations as premature (see Niehaus 2005).

<sup>13</sup> The Constituent Assembly received 1.7 million submissions but only 11 000 were substantial enough to be considered by the Technical Committee (Ebrahim 1998: 244).

<sup>14</sup> For a comprehensive analysis of the submissions to the Constituent Assembly see Niehaus 2005.

<sup>15</sup> Regarding the inclusion of Clause 14 (13) on the implementation of religious personal and family law in the Interim Constitution see Spitz&Chaskalson 2000: 339.

<sup>16</sup> Regarding the attitudes of different Muslim organisations vis-à-vis the elections of 1994 see Niehaus 2005.

<sup>17</sup> See Call of Islam, *Newsletter*, 11 (7), 1994 and Anon., Elections, Elections, Elections, *Risalatuna*, 6, (1), February 1994.

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- <sup>18</sup> Anon, Liberation Movements Have Strong Support among Muslims, *Muslim Today*, 1 (3), April 1994.
- <sup>19</sup> Anon., AMP Ill-Considered, Ill-Timed – Jamiat, *Al-Qalam*, 20 (4), April 1994.
- <sup>20</sup> See Pan Africanist Congress, Why should Muslims support us, *Boorhaanol Islam*, 28 (4), 1993, Special Feature: Muslims and Elections, pp. 25; Ismail A, National Party: why Muslims should vote for us, *Boorhaanol Islam*, 29 (1), 1994, Special Feature: Muslims and Elections, pp 28; Shuttleworth GVG, Inkatha Freedom Party: Muslims and the elections, *Boorhaanol Islam*, 28 (4), 1993, Special Feature: Muslims and Elections, p 22; Democratic Party, Why Muslims should vote for us, *Boorhaanol Islam*, 28 (4), 1994, Special Feature: Muslims and Elections, p 21; Rasool E, African National Congress: Voting for transformation, *Boorhaanol Islam*, 28 (4), Special Feature: Muslims and Elections 1994, p 17.
- <sup>21</sup> Dangor SE., Political Conduct, *Muslim Views*, 7, (4), May 1994.
- <sup>22</sup> Advertisement of the Muslim Forum on Elections, Muslim Forum Declaration on the April Elections, *Al-Qalam*, 19 (3), March 1993.
- <sup>23</sup> The majority of the Indian and coloured population voted for the NP, which indicates that a large part of the Muslim population voted for the party (Carrim 1996: 46).
- <sup>24</sup> For an analysis of the election results and votes for the two Islamic parties see Johnson&Schlemmer 1996. According to Ebrahim Moosa, who analysed the data of the Independent Electoral Commission only about 5% of Muslims voted for an Islamic Party (Interview with Ebrahim Moosa, in *Boorhaanol Islam*, 29 (2), 1994.
- <sup>25</sup> The apartheid government had already investigated the possibility of integrating MPL into the legal system in 1987. It was sending out questionnaires to various Muslim groups and institutions but the progressive Muslim organisations refused to co-operate with the regime (Moosa 1988: 33f.).
- <sup>26</sup> In similar ways Abdulkader Tayob (2003: 31) argues that especially for Muslim women Islamic law is connected to identity formation in the context of religious traditions and Islamic symbols.
- <sup>27</sup> See South African Law Commission, *Islamic Marriages and Related Matters*, Issue Paper 15, Project 59, 2000.
- <sup>28</sup> While the Ulama sought to secure their position in the process of implementing MPL law experts saw their role critical since many members of the Ulama lacked a proper legal qualification in Islamic law (Moosa 1998: 200).
- <sup>29</sup> See South African Law Commission, *Islamic Marriages and Related Matters*, Issue Paper 15, Project 59, 2000 and South African Law Commission, *Proposed Draft Bill. Islamic Marriages Act...of 20...*, no year.
- <sup>30</sup> The Commission on Gender Equity (CGE) organised regional workshops around the country to inform the community and collect responses on the Issue Paper.
- <sup>31</sup> For an analysis of the submissions to the Project Committee of the South African Law Commission see Niehaus 2005.
- <sup>32</sup> United Ulama Council of South Africa, *Islamic Marriages and Related Matters*, Submission to the South African Law Commission, 14 September 2000.
- <sup>33</sup> The South African Law Commission acknowledged that the implementation of separate Shari'a Courts with judges who are qualified in Islamic Law would be the ideal procedure to introduce MPL. The Commission stated nevertheless that this could not be realised due to limited state resources (see South African Law Commission, Discussion Paper 101, *Islamic Marriages and Related Matters*, Project 59)
- <sup>34</sup> The US Department's Office of the Co-ordinator for Counter-Terrorism even regarded Pagad as one of 44 organisations world wide who contribute to increasing violence and who were surveyed by the intelligence

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service (Sylvester E, PAGAD among 44 Groups listed as 'terrorist' by US Government, *Cape Argus*, 2 May 2001).

<sup>35</sup> Le Roux (1997) regards the perceived inability of the new government to protect its citizens against crime as the main reason for the mass support Pagad could gain during their public marches in the late 1990s.

<sup>36</sup> See People Against Gangsterism and Drugs, *National Conference*, March 1997.

<sup>37</sup> Qibla was regarded to be the think-tank of Pagad and the supporters had the organisational and political experience to lead Pagad (see Dixon&Johns 2001).

<sup>38</sup> Speech of the National Chief Co-ordinator of Pagad, Abdus-Salaam Ebrahim, Eid-ul-Fitr, 9 February 1997, City Park Stadium, Crawford, Cape Town.

<sup>39</sup> See Smith A & Barnes L: It's holy war, vows Qibla, *Cape Argus*, 4 November 1996.

<sup>40</sup> See Friedman R, PAGAD leaders in sedition probe, *Cape Times*, 13 August 1996. Links between Pagad and the Hisbullah or any other international Islamic movement could not be proved.

<sup>41</sup> See Salie A, Muslim clergy attacks Pagad, *Cape Times*, 14 January 1997.

<sup>42</sup> See Damon J, Bomb attack on academic's home, *Cape Times*, 14 July 1998; van Zilla L, Blast victim Moosa calls for tolerance, *Cape Times*, 15 July 1998 and Duffy A, Sheiks stand up to PAGAD, *Mail&Guardian*, 17 July 1998.

<sup>43</sup> Between 1996 and 2000 the Cape Province experienced a total of 576 bomb blasts, the majority was attributed to Pagad (Merten M, NIA, police links to attacks, *Mail&Guardian*, 10 December 1999). Experts nevertheless have doubts that Pagad are responsible for most of the attacks since gangs could also have an interest to initiate violence and to discredit Pagad (Dixon&Johns 2001).

<sup>44</sup> See Merten M, Murdered PAGAD leader was informer, *Mail&Guardian*, 23 July 1999; Merten M, NIA agent linked to PAGAD attacks, *Mail&Guardian*, 1 October 1999; Abader G, Bombs set off to frame PAGAD, says Mostert, *Cape Times*, 17 January 2000. Regarding motives there were right-wing forces within the police who had an interest in destabilising the ANC-led government.

<sup>45</sup> See Abader G, PAGAD supporters in 55 court cases, *Cape Times*, 12 January 2000 and Kemp Y, Jeneker and Maansdorp found guilty, *Cape Argus*, 18 December 2002)

<sup>46</sup> See Hasenclever 2002.

<sup>47</sup> For a definition of the term "disengagement" see Baker 2000: 2.