Understanding South Africa's Democratic Trajectory

A comparative analysis of post-colonial societies

MAPUNGUBWE
INSTITUTE FOR STRATEGIC REFLECTION (MISTRA)

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Acronyms and Abbreviations

ALN	National Liberation Army
ANC	African National Congress
ANEP	Autoridade Nacional de Educação Profissional
APLA	Azanian People's Liberation Army
ARVs	Anti-retroviral medication
B-BBEE	Broad-Based Black Economic Empowerment
CAG	Comptroller and Auditor General
CBI	Central Bureau of Investigation
CODESA	Convention for a Democratic South Africa
COMECON	Council for Mutual Economic Cooperation
COSATU	Congress of South African Trade Unions
CRUA	Revolutionary Council for Unity and Action
CVI	Central Vigilance Commission
DRS	Directorate of Intelligence Services
FFS	Socialist Forces Front
FIS	Islamic Salvation Front
FRELIMO	Front for Liberation of Mozambique
GEAR	Growth, Employment and Redistribution
GNP	Gross National Product
GNU	Government of National Unity
GPA	Global Peace Agreement
HIV and AIDS	Human Immunodeficiency Virus and Acquired Immune

	Deficiency Syndrome
IIAG	Ibrahim Index of African Governance
IMF	International Monetary Fund
ISF	Islamic Salvation Front
LBGT	Lesbian Bisexual Gay and Transgender
LGBTQ	Lesbian Bisexual Gay and Transgender Queer
LNG	largest liquefied natural gas
MDA	Movement for Algerian Democracy
MDM	Mozambique Democratic Party
MISTRA	Mapungubwe Institute for Strategic Reflection
MK	Umkhonto we Sizwe
MPRDA	Mineral and Petroleum Resources Development Act
MSP	Movement for Society of Peace
NGC	National General Council
NGO	Non-government Organisation
NLF	National Liberation Front
NPC	National Planning Commission
NTLD	Triumph of Democratic Liberties
OS	Special Organisation
OSF-SA	Open Society Foundation for South Africa
PNA	People's National Army / Armée Nationale Populaire
PP	Public Prosecutor
RENAMO	Mozambique National Resistance
RDP	Reconstruction and Development Programme
RND	National Democratic Rally
SACP	South African Communist Party
SRP	Socialist Resistance
TAC	Treatment Action Campaign
UGTA	General Workers' Union
UNDP	United Nations Development Programme
UNEMO	National Union of Mozambican Students
VOC	Vereenigde Oostindische Compagnie

Section One

Overview, Objectives and Theorisation of Democracy

INTRODUCTION AND RESEARCH METHODOLOGY

Understanding South Africa's Democratic Trajectory: A comparative analysis of post-colonial societies is a study that the Mapungubwe Institute for Strategic Reflection (MISTRA) conducted on behalf of the Open Society Foundation for South Africa (OSF-SA). The aim of this research is to examine empirical evidence about whether South Africa's current democratic trajectory is exceptional or substantially comparable to other post-colonial experiences. The research process included a comparative analysis of South Africa and other selected post-colonial societies in Africa and Asia.

The report seeks to identify features that characterise or have shaped the emergent trajectories of the selected cases, and to discuss the implications for constitutional democracy in South Africa. The insights are aimed at provoking discourse on South Africa's post-colonial path and transformation.

Mozambique, Algeria and India were considered to be relevant cases for analysis because, like South Africa, they also went through protracted liberation struggles. In the case of Mozambique, the liberation party is still in power, like in South Africa. The duration of the post-colonial experience was one of the variables relied on in choosing the case studies. South Africa's post-colonial experience has just been over 25 years, far shorter than that of the other countries used as case studies. Mozambique achieved independence from Portugal in 1975, then went through an extended transition to democracy

with a period of non-electoral FRELIMO rule. As in South Africa, 1994 marked Mozambique's first democratic election. Algeria's post-colonial society has now been 58 years in the making. The country won its independence from France in July 1962, ending an eight-year-long 'War of Independence'. India's post-colonial experience is now 73 years long. The duration of the post-colonial experiences is significant in that it affects contemporary comparison and contrast, as well as projections for possible trajectories for South Africa.

The research also recognised the significance of varying colonial practices. Our choice of Algeria, Mozambique and India was intended to allow for comparisons between French, Portuguese and British colonialism and their impact on the post-colonial experience. As colonised territorial spaces, societies in South Africa, India, Mozambique and French Algeria were premised on a racial order that delineated social differentiation on political and economic grounds, and this impacted on class formation. Settler colonialism is one of the key features that define the socio-political character of both Algeria and South Africa; so too was the armed struggle as an important mode of resistance. No settler community beyond the administrative stratum emerged in India; yet the legacies of racist legal frameworks, and a host of other features of colonial domination, resonate with those of South Africa and Algeria.

India, Algeria and South Africa were led to freedom and independence by liberation movements whose popular struggle credentials enabled them to assume political office on liberation. All three – the Indian National Congress (India), the National Liberation Front (Algeria) and the African National Congress (ANC) – became modernist political forces inspired by the principles of equality, justice and progress. It was within this framework that they developed ideological tenets that sought to build a humanist nationalism as a bedrock of the new nations. In contrast, the Front for the Liberation of Mozambique (FRELIMO) attempted to rule Mozambique first as a one-party state and, after the civil war, became the dominant party in a multi-party system.

In the case of both India and Algeria, these governing parties failed to honour the key principles that catapulted them into power.

For instance, a phenomenon known as 'the sins of incumbency' set in, which saw these governing parties lapsing into a culture of entitlement and complacency (Netshitenzhe, 2018a: 7). Over time, the sins of incumbency and a growing social distance between the political elites and the masses in both India and Algeria led to a corrosion of the governing parties' political currency and historical legitimacy. Recent political developments in South Africa, which necessitated the constitution of a Judicial Commission of Inquiry into State Capture, could be symptomatic of a slide towards such a phenomenon. Anti-apartheid activist and former state bureaucrat, Ayanda Ntsaluba, referring to the events that necessitated the appointment of the afore-mentioned Commission argues that,

> [As a nation] we were beginning to have a very distorted notion of political leadership. We transitioned under the careful handling of leaders that we fully trusted, who had given everything. We were too ready to abdicate our own responsibilities as active citizens and were beginning to get into a false sense of security; and forgot that people rise to leadership now under completely different circumstances.[1]

It is clear from the above statement that notions of political leadership shift over time. Thus, a comparative study with countries that have experienced a democratic dispensation longer than South Africa has the potential to provide lessons that are valuable in understanding South Africa's democratic trajectory.

This research project used various qualitative methodologies, but also in some instances infused statistical data and indicators obtained from quantitative studies such as those carried out by the Afrobarometer, the World Bank and the International Monetary Fund (IMF). Seventeen experts were interviewed, and these included academics and experts from different fields, journalists, former freedom fighters, social activists and publishers. While some interviews were conducted face-to-face, others were via email exchanges or

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1 Ayanda Ntsaluba, former DIRCO director general, and anti-apartheid activist, interviewed on 4 June 2019.

Skype. For those conducted via email, the dates will be represented as a range, to cater for varying exchanges between the interviewer and respondent. All interviews were only semi-structured to allow interviewees scope to offer rich reflections on political developments in the case studies selected. Some of the respondents had reflections on more than one country, and this triggered comparisons and analyses even at the interviewing stage. The views provided by respondents were triangulated with those obtained from secondary sources – such as country reports, historical or archival data and current affairs publications.

Data gathered through interviews, desktop research and archival study was synthesised by a team of researchers from MISTRA. Predetermined themes were used to analyse the data, and these themes became the subtitles of different sections of the case studies. The same themes were used to organise and frame the findings of the study. The first draft of the report was presented at an internal roundtable workshop, where feedback was obtained from participants in the workshop. This feedback was used to develop a second draft, which was interrogated at a second roundtable workshop, where further feedback was given. These two workshops, together with internal MISTRA peer reviews, were important not only in strengthening the report, but also in provoking intense discourse on South Africa's democratic trajectory, which is an implied objective of this project. One of the notable limitations of the methodology used for this study is the lack of first-hand data from ordinary citizens, who might have different views from those represented by the experts and academics who participated in this study.

THEORISATION OF DEMOCRACY

The term democracy is at the heart of the discourse, theory and praxis of politics. It has evolved over a few centuries and has informed debates on governance in domestic and international spheres. An understanding of democracy as a governance system is readily presumed due to the assumed universalism of the concept. Government scholars, activists and citizens across the globe continuously grapple with questions

such as: (a) What constitutes democratic governance? (b) Which methodologies are most suitable for analysing democracy? (c) How do societies consolidate and embed democracy? This study will attempt to proffer views on these enduring questions.

The history of democracy shows that democracy is a complex political system that has evolved in profound ways over time. This is well captured by Farrar who discusses ancient Greece and the creation of the Athenian city-state's democracy (1992: 18). The democracy of ancient Greece, captured by the debates and differences of Thucydides, Plato, Socrates and others revealed the emergence of political freedoms, and as argued by Farrar, 'Politics [during this era] was an attempt to enable men of different classes and attributes to become capable citizens, to express and transform their understanding of the good through political interaction' (1992: 38). While this conception of democracy was intended to promote debate and political discourse, it did have several limitations, especially when projected into the modern era. Here it is important to note the uneven development of democracy within Europe itself, where liberal democratic rule only became a feature of social life during what is known as the modern era. Prior to this era, Europe was ruled by monarchs and other variations of hierarchical governance over time. This is besides the patriarchal conception of democratic rights over centuries.

It is often taken for granted that, irrespective of context, the democratic principles embodied in the doctrine of liberal democracy are transferable to all places. This argument is countered by Shalini Randeria's (2002) concept of 'entangled histories of uneven modernities'. Randeria argues that as concepts travel through time and space, they change colour and shape as they come into contact with different cultures, thereby adopting different identities even though they may maintain their core historical connotations. Thus, Randeria cautions against a dogmatic usage of theoretical concepts such as democracy without regard to contextual realities. The argument, which is taken on to form the basis of this study, is that democracy as applied to developing nations should be sensitive to the peculiar circumstances of each region. Hence, the necessity for an analytic framework conceptually attuned to the particularities of

the post-colonial state cannot be overemphasised. Such a framework will ground the understanding of democratisation, and subsequent attempts at democratic consolidation, within an expansive explanatory framework that goes beyond a narrow understanding of democracy based on the procedures of fair, honest and regular elections. In the South African case, it will have to incorporate an understanding of the all-round effects of colonialism on the post-colonial state. Such an integrated approach, which distinguishes substantive democracy from its procedural version, would offer a much more realistic measure for democracy's utility because it would include additional qualifiers such as universal suffrage and socio-economic and political rights. This substantive form offers more than the hegemonic liberal form of democracy (Post 1991: 42), which is critiqued in the next section.

CRITIQUE OF LIBERAL DEMOCRATIC THEORY

This section will contribute to the debate using heterodox conceptions of democracy. It argues that liberal democracy – in both its classic and contemporaneous forms – is inadequate for democratic consolidation. This view specifically applies to countries with a history of colonial subjugation. These notions of liberal democracy, in turn, informed the nature of democratic governance with regard to citizenship, institutional make-up, state legitimacy, social cohesion and social justice. The following sections of this chapter develop this argument.

The classic conception of liberal democracy places primacy on formal political liberties: free and fair electoral processes; transparent and accountable institutions; respect for separation of powers; and respect for civil liberties. These are contained in research on democracy and various international indices (for example, Freedom House, 2019; Economist Intelligence Unit, 2019; Mo Ibrahim Foundation, 2019). Public policymakers use reports developed by these organisations in their analysis of the state of democracy in various societies. Such work is valuable and has made an important contribution to the global discourse on democracy. However, the following shortcomings have been identified in both the classic liberal conception of democracy and the analysis of democracy deriving from this school of thought.

The notion of liberal democracy places insufficient emphasis on the inherent link between political and socio-economic liberties. The emphasis is on the procedural political rights outlined in previous sections. These are delinked from broader socio-economic factors that have a substantial impact on governance in both authoritarian and democratic contexts. Amartya Sen (1999) raises a similar critique in his seminal work entitled *Development as Freedom.* He illustrates an intrinsic link between political, social and economic dimensions of freedom. Sen states that the exercise and nature of political agency is influenced by socio-economic conditions like poverty, which he describes as 'sources of unfreedom'. Thus, conceptions of freedom have to be examined using a diverse set of separate but connected liberties. This approach includes analysing the institutions, within and outside the state, which influence access to a full range of rights. Sen (1999: 3) contends that,

> the relation between individual freedom and achievement of social development goes well beyond the constitutive connection – important as it is. What people can positively achieve is influenced by economic opportunities, political liberties, social powers, and the enabling conditions of good health, basic education and the encouragement and cultivation of initiatives. The institutional arrangements for these opportunities are also influenced by the exercise of people's freedoms, through the liberty to participate in social choice and in the making of public decisions.

The second critique relates to history and how it influences conceptions of citizenship, social contract and political culture in a democratic dispensation. Charles Mills (1997) provides the most succinct criticism of the narrow liberal conception of social contracts. He illustrates how the emergence of liberal theory and political praxis coincided with colonialism, and uses the term 'Racial Contract' to describe this process.

He explains this in the following words (1997: 4):

> The Racial Contract then is intended as a conceptual bridge

between two areas now largely segregated from each other: on the one hand, the world of mainstream (i.e., white) ethics and political philosophy, preoccupied with discussions of justice and rights in the abstract, on the other hand, the world of Native American, African American, and Third and Fourth World political thought, historically focused on issues of conquest, imperialism, colonialism, white settlement, land rights, race and racism, slavery, Jim Crow, reparations, apartheid, cultural authenticity, national identity, indigenismo, Afrocentrism, etc.

Mamdani's theory of citizenship deepens Mills's critique by illustrating that citizenship in former colonies continues to be shaped by political identities constructed in the imperial epoch. Racism, tribalism, ethnicity, religious discrimination and other hierarchical social identities inform citizenship in these countries. This phenomenon is at the heart of socio-political conflict, which continues in the democratic, post-colonial era. Therefore, analysis of citizenship needs to consider the complex historical construction of political theories of being and agency (Mamdani, 2012).

Some of the limitations of liberal democracy are advanced by Ken Post. Foremost in his critique is the question of access, where he argues that, in practice, the chances of some people and organisations to be '…heard and exert influence are much smaller than others' (Post, 1991: 45). Often, this is a function of the resources and connections an individual can muster within a polity. As Post acknowledges, liberal democratic systems are dualistic, with political structures – to which access is gained through elections – operating in parallel with bureaucratic ones that often serve to reproduce existing power differentials. To secure political power, for example, organisations must have access to resources in order to have their representatives elected. With such a setup, there is a high chance that policies and ideas play a subordinate role to the resources that organisations and individuals can mobilise to be elected as representatives.

The other weakness that Post identifies is that of representation. Beyond the problem that bureaucrats within state structures are likely to represent some organisations better than others (sometimes due to

kinship or connections to a specific community of language), in most liberal democracies, an average voter is required to elect representatives from candidates in whose selection she/he never participated. And between elections, 'there is no effective control that can be exerted by voters over their "representatives" who incidentally are likely to be nothing of the kind in class or other socioeconomic terms' (Post, 1991: 46).

Lastly, the assumptions of the liberal theory of democratic consolidation need to be questioned. Proponents argue that the creation of democratic political cultures, institutions and seamless power transfers are sufficient for addressing the social conflict associated with authoritarian governance systems. In simple terms, democratisation and subsequent consolidation are reduced to social stability, cohesion and peace. This thesis can be challenged if one draws on the experiences of former colonies that have adopted democratic systems. Violence, social instability and weak social cohesion are still prevalent in many of these countries. Experiences and trends in post-apartheid South Africa epitomise this observation. Von Holdt (2013) describes South Africa as a violent democracy. He traces both macro and micro violence in economic, political and social spheres to develop his argument. According to Von Holdt (2013), the transition to post-apartheid liberal democracy has not produced the stability predicated by orthodox liberal democratic consolidation theorists. The social inequality and exclusion accompanying the political economy of liberation has maintained, if not exacerbated, this societal violence. This is intriguing because South Africa is lauded for its constitution, democratic culture, political equality and pluralism. In other words, reducing inequality is important to secure future stability and democratic consolidation (Rivero et al., 2003: 6).

Democratic pluralism

To moderate the limitations of the proceduralist approach, even liberal scholars such as Diamond argue for a democratic pluralism that does not discount procedural interpretations but highlights their cultural limitations (Diamond, 1997). The intention of such an approach is to

expand the traditionalism associated with the notion of procedural liberal democracy and to address some of the criticisms by thinkers such as Anthony Arblaster. Arblaster argues that the prioritisation of the western democratic experience is problematic and that 'democracy's meaning, and understandings is of its core values and institutions, [and these] are negotiated in the context of different cultural, social and economic discourses, struggles and interests' (quoted in Kurki, 2010: 375). In light of this, Amartya Sen's capabilities approach to development becomes relevant. Sen argues that macro indicators such as the gross national product (GNP) are insufficient because they misrepresent situations by not factoring in social indicators such as inequality. The capabilities approach 'sees human life as a set of "doings and beings" – that can be called "functionings" – and it relates the evaluation of the quality of life to the assessment of the capability to function' (Sen, 2003: 43). Sen's approach emphasises the combination of the 'evaluative aspect' and 'agency aspect' to development and, as Fukuda-Parr (2003: 43) points out, '[remains] open-ended in the choice of capabilities, letting them vary over time and place'. This allows for a more contextually appropriate understanding.

Using a similarly expansive perspective, the Open Society Initiative for Southern Africa's publication *Towards Democratic Developmental States in Southern Africa* introduces the concept of a democratic developmental state. The democratic developmental state is defined as '… one that forges broad-based alliances with society and ensures popular participation in governance and transformation processes' (Kanyenze et al., 2017: 48). The inclusion of developmental discourse into the democracy debate allows for recognition of the post-colonial context in which the intersection of economic, social and political indicators is influential in the democratic experience. For instance, the economic and socio-political experience of being what dependency theorists call peripheral actors, as well as the impacts associated with neoliberalism from the late 1970s onward, provide opportunities for recognising a more nuanced democratic trajectory. The Open Society publication calls for the strengthening of state institutions in order to create a developmental state, and rightly shines light on the paradox of liberal thinking which insists on 'minimal state interference while

requiring the incapacitated state to do so many things at the same time' (Kanyenze et al., 2017: 340). It is only state capacity that can enable post-colonial countries to play a developmentalist role.

Furthermore, post-colonial societies (especially those on the African continent that were a part of what democratic theorist Samuel P. Huntington described as a third wave) also need to recognise that the 'consolidation' of democracy, though contested, is still imperative. Unlike democratic transition, which mainly concerns itself with liberal and procedural measures such as free, fair and regular elections, democratic consolidation will help to bring into sharp focus the state of existence of the most marginalised in society, leading to processes that are intended to ameliorate that marginalisation. Scholars recognise the consolidation of democracy as being a defining feature of a country's democratic experience as it arguably measures the width and depth of the democracy. Juan Linz and Alfred Stepan (1996) identify the combination of behavioural, attitudinal and constitutional factors as being central to democratic consolidation. They further break this down by indicating that a successfully consolidated democracy must have the following five dimensions in place:

- Free and lively civil society;
- Autonomous and valued political society;
- Rule of law to ensure legal guarantees for citizens' freedoms;
- A state bureaucracy that will be usable to a new democratic government; and
- An institutionalised economic society.

Even with the expanded understanding of democracy associated with a more pluralistic conception of democracy, structural criticisms still remain. What has been of particular interest is how those who have been able to 'tailor' it to their contextual needs (such as a social democracy that emphasises 'social solidarity and development of institutional structures for democratic control over economic processes') have created a better understanding of democracy and its capabilities (Kurki, 2010: 373).

EXPLICATING THE NOTION OF CONSOLIDATED DEMOCRACY

The notion of democratic consolidation is a slippery one for many reasons. For one, the existence of the various varieties of democracy explained earlier means that there are challenges in measuring the practice and relevance of democracy in developing countries. Hegemonic amongst these varieties is liberal democracy, which has been simplified by its proponents to revolve around major themes of free and fair elections, transparency and accountability, and good governance (Shivji, 2011). This emphasis on procedures peripheralises other factors that ought to be central to democracy. Archie Mafeje (2002) argued that while liberal democracy upholds principles of equality of all citizens before the law, it fails spectacularly to address questions of social equality and justice. To ameliorate this weakness, Mafeje suggested a reconsideration of the practice of democracy in developing countries such as those in Africa, with the aim of reorienting its dominant liberal leanings towards what he calls the 'new African democracy'. This is not too different from Shivji's (2011) 'popular democracy' or what John Saul calls 'strong democracy' (Saul, 1997: 231). This way of conceptualising democracy is inclusive and recognises the material conditions of the governed (Mafeje, 2002).

Mafeje's argument is that meaningful democracy should allow the will of the people to penetrate processes of decision-making because the outcomes of such decisions directly impact their lives. This may be achieved if a national democratic alliance, in which popular social groups hold the balance of power, ascends to take charge of society (Mafeje, 2002). In addition, reorientation towards this new democracy should entail an equitable distribution of resources, leading to guaranteed livelihoods for the masses. In support, Shivji (2011) says such a solid version of democracy should be developed around three fundamental elements – popular livelihoods, popular participation and popular power. As this report seeks to do, these crucial aspects of democracy need to be included in the more conventional conceptualisation of democracy, and this speaks to Randeria's (2002) argument of locating concepts – their usage and utility – in a specific cultural setting. Only

then can it be called a 'national democracy', as opposed to a democracy of the few. This insight into how democracy can play out broadens – beyond conventional definitions – the parameters of understanding, and the critiques of, democracy.

Mafeje's notion of new African democracy can be used to assess not only the levels of democratisation in developing countries, but also its relevance to the masses. Thus, commonly used indicators of democratic consolidation, such as repeated and consistent elections, peaceful transfer of power from one leader to another, as well as absence of authoritarian rule are inadequate in assessing the depth of democracy in Africa. The analysis of democracy in this report therefore will include an analysis of the socio-economic fundamentals of inequality, unemployment and poverty, as well as the strength of institutions that are necessary to enforce democracy.

In summary, democracy potentially can regress incrementally over time if it does not fulfil the material needs of the masses. Poor and hungry people have no reason to support a governance system that does not address their challenges. Thus, regression makes elections less competitive without entirely undermining the electoral mechanism; it restricts participation without explicitly abolishing the norms of universal franchise that form part of contemporary democracy; and it reduces accountability by eroding mechanisms that compel officials to justify their actions or impose sanctions for undesirable conduct (Waldner and Lust, 2018: 95). This may lead to the reversal of the democratisation process, also known as democratic de-consolidation. It is worth noting that the term 'consolidating democracy' does not mean that the state of democracy is consolidated; it only signals ongoing processes in a growing, maturing and strengthening democracy. Therefore, democratic consolidation should be understood as an ongoing process within a continuum. It is in this context that this study benchmarks successes or failures of democratic consolidation on the basis of the above framework, which combines a liberal understanding of democracy at the political level with one that takes into account socio-economic dynamics.

Section Two:

Case studies on democratic transition and consolidation: The case of Mozambique

BACKGROUND/CONTEXT OF TRANSITIONAL PERIOD

Portuguese colonisation of Mozambique occurred as a result of the need to find a sea route to East Asia. The first Portuguese inhabitants of Mozambique arrived in 1498 led by Vasco da Gama (Northrup, 1998). While the gradual process of Mozambique's colonisation began from 1505, the official process took shape with the Berlin Conference of 1884–5, the so-called 'Scramble for Africa'.[2] It should be noted, however, that prior to the above-mentioned Portuguese migration, there was massive migration into Mozambique from within and near Africa, including large contingents of traders, both Arab and Swahili, who were attracted to Mozambique by the potential offered by its location on the sea route (Baur and Taylor, 2011).

The 19th-century slave trade was the main trading activity of the Portuguese in Africa, and it made up 85 per cent of the value of their 'exports' (Huffman, 1992). The colonial era saw a toxic combination of the undermining and elimination of indigenous educational practices, with the simultaneous institutionalisation of the European 'civilisation' project. Like many other colonised countries, indigenous Mozambicans' (*indigenas*) education was run by missionaries, in this case, from the Catholic Church. However, these missionaries were 'domesticated' and controlled by the colonial state, and it was only later that missionaries expanded education beyond what they had been

2 The Scramble for Africa was the occupation, division and colonisation of African territory by European powers during the period of New Imperialism (between 1881 and 1914).

instructed to teach by the coloniser (Cross, 1987). By the late 1950s, over 90 per cent of the African population in Mozambique was illiterate since proper education was not necessary for the forced menial work they were expected to do (Johnston, 1990).

In terms of trade, Mozambique as a colony was treated as a province of Portugal, dependent largely on exporting primary products that did not bring much development into the country. The country had to import manufactured goods from either South Africa or Europe.

Forms of liberation struggle and ideology

Colonial rule in Mozambique was brutal and oppressive, which necessitated a military response from the colonised (Huffman, 1992). The 1960s saw many previously colonised countries gaining independence, and there were calls for Portugal to grant independence to Mozambique and its other colonies. When the first anti-colonial groupings formed in Mozambique, they were ill-equipped to confront the coloniser, partly due to Mozambique's poorly integrated social and economic system, which prevented Africans from coming together into occupational groupings. In addition, a large part of the working class were migrant labourers who were not educated (Chabal, 2001). As a result, several disparate, small anti-colonial groups were formed by Mozambicans living in other countries (such as Kenya, Malawi, Zambia, South Africa and Zimbabwe) as well as students within Mozambique who formed the National Union of Mozambican Students (UNEMO).

These disparate groups, inspired by Tanzania's independence, came together to form the Front for the Liberation of Mozambique (FRELIMO) in June 1962, and elected Eduardo Mondlane as its first president (Chabal, 2001; Huffman, 1992). Since FRELIMO was an amalgamation of several groups, there was an initial debate as to which ideological framework to adopt. Thus, organically, FRELIMO became a nationalist movement whose main aim was driven by a liberation rhetoric, inspired the desire to free Mozambique from oppression (Baur and Taylor, 2011). However, over time, the party began to lean more towards Marxism-Leninism in an attempt to emphasise the socio-economic dimension of the struggle. This orientation was

further boosted by funding from socialist countries such as the Union of Soviet Socialist Republics or USSR (Shubin, 2008).

Prior to the formation of FRELIMO, there was a realisation that a peaceful transition towards independence was going to be unlikely. This realisation was further affirmed by the massacre at Mueda, in Cabo Delgado province near the border with Tanzania, where soldiers fired on a peaceful demonstration calling for Portugal to free Mozambique, killing over 500 people. FRELIMO henceforth adopted the strategy of a protracted guerrilla war, and gradually began to move further southward where they mobilised peasant farmers, with lead teams sometimes settling in target areas for at least a year to blend with locals before FRELIMO armed cadres would make their way there. This contact with the peasants during the struggle also helped FRELIMO to connect at a higher level with the rural masses after Mozambique gained its independence.

Mozambique's armed struggle officially began in 1964, with constant attacks and raids on colonial administration buildings (Funada-Classen, 2013). FRELIMO initially avoided a full-on attack as it was not equipped to handle Portuguese armed forces. Even with assistance from some Western countries and Tanzania, FRELIMO faced numerous challenges relating to a lack of human resources, weapons and provisions (Funada-Classen, 2013). Furthermore, during the early years of the armed struggle, FRELIMO experienced internal conflict, which ultimately led to the expulsion of some members who were thought to be against FRELIMO's militant revolutionary stance. The conflict also led to the assassination of the party's president, Eduardo Mondlane, in 1969. Out of these divisions emerged a stronger Samora Machel-led FRELIMO, which surprised colonial authorities because of its newly established cohesiveness and resolve that helped to accelerate the armed struggle (Funada-Classen, 2013).

Though there were many intricate factors and incidents that contributed towards the ceasefire of 1974, it is perhaps the Carnation Revolution[3] of 1974 in Portugal that was highly significant. This revolution overthrew the authoritarian rule of Marcelo Caetano

3 The Carnation Revolution was initially a military coup in Lisbon on 25 April 1974, which overthrew the authoritarian Estado Novo regime.

and paved the way for the independence of Mozambique and other Portuguese colonies (Baur and Taylor, 2011; Huffman, 1992). In September 1974 the new government in Portugal and FRELIMO signed what became known as the Lusaka Peace Treaty, which granted power to a provisional government led by FRELIMO. Mozambique became fully independent in June 1975 (Mittleman, 1978; Funada-Classen, 2013). The process of FRELIMO's ascension to state power, which later defined the trajectory and pace of Mozambique's development, as will be discussed below, is clearly captured in Oscar Monteiro's[4] views:

> After months of negotiations the Portuguese were not able to resist due to a lack of institutional capacity. What characterised our transition, [is that] it was very short, nine months and after that came independence and the Portuguese left. The mass mobilisation of the black population threatened the Portuguese and contributed towards them leaving the country. The reason for their leaving was not only due to the mass mobilisation; but also to them, the idea of the country being ruled by 'the servants' was difficult to accept. For them the paradigm for 'black' was servant. Our problem then was to figure out how to manage the transition when the old class who knew how to manage/run the country left abruptly. This forced us to learn how to run the country, which was not the case in other countries. We had a very bureaucratic administration, not very efficient. The economy was not very developed but that is what we had. All the previous technicians were all white.

Thus, as the provisional government ended in June 1975, a new constitution was drawn up, which stated that the president of FRELIMO would be the president of the country. It also clarified the nature and ideological orientation of the new government by stipulating that members of the legislature would be nominated by FRELIMO, a Marxist party. This too, in addition to the reasons given by Monteiro, explains the rapid departure of the Portuguese settlers, leaving the country to administrators with hardly any governance experience.

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4 Oscar Monteiro, intellectual, political activist and FRELIMO member, interviewed on 30 April 2019.

DEPTH OF DEMOCRATIC TRANSITION IN MOZAMBIQUE

If one is to take a cursory look at the question of whether democratic transition in Mozambique was successful or not, the immediate answer would be in the affirmative. This will only be to the extent that the country had been freed from a colonial government. However, a deeper analysis needs to be made in order to understand what constitutes not only a 'free' nation, but also illustrates a substantial transition from conditions that prevailed before independence. At the macro level, Mozambique typifies a post-colonial state that had been shaped by colonial conditions: structurally weak, divided, dependent on external aid, and blighted by high rates of illiteracy, skills shortages and poverty. To this extent, Mozambique evinces the typical features of a socio-economically compromised nation, whose governance was further constrained by a transition process, which concentrated power in one party.

Even though there is a widespread perception that FRELIMO won the war, the reality is more complex. The liberation movement in Mozambique came to power not because the settlers had been militarily defeated, but because the situation in Lisbon made it difficult for the coloniser to continue fighting against independence of its colonies. The attention of the colonising power was concentrated elsewhere, and defending colonial territories was the least of its priorities, hence the immediate granting of independence to most of its colonies. At the time of independence, Mozambique was ill-equipped for democracy and development since the former coloniser had not invested in human development and physical infrastructure within the country. In addition, FRELIMO, which abruptly became the new ruling party in the wake of a coup in its colonising state, Portugal, had not gained power because it had necessarily won the hearts of all Mozambicans. In fact, the party controlled a limited number of territories within Mozambique (Funada-Classen, 2013).

The emergence of RENAMO and the civil war

After independence, FRELIMO, as the leading political force in the country, declared Mozambique a one-party socialist state and discouraged the formation of opposition parties. However, this did not stop the Mozambique National Resistance (RENAMO), a military rebel movement that engaged in a 15-year-long civil war with FRELIMO, from being formed. RENAMO was created by the Rhodesian military with personnel from former Portuguese armed forces. These former Portuguese solders had crossed over to then Rhodesia (subsequently Zimbabwe) after Mozambique gained independence and closed its borders with Rhodesia (Huffman, 1992). RENAMO was headed by a former FRELIMO member, André Matade Matsangaissa. With assistance from Rhodesia and South Africa, RENAMO began insurgent attacks and infrastructure destruction in Mozambique. Apartheid South Africa's interest in RENAMO was due to the movement opposing FRELIMO's adherence to socialism; and also, because South Africa relied on RENAMO to help cripple African National Congress (ANC) centres in Mozambique.

Matsangaissa led RENAMO until his death in 1979, after which Alfonso Dhlakama took over until his death in 2018. RENAMO's overall objective was to destabilise Mozambique by undermining FRELIMO's control and governance in general. This rebel movement violently attacked areas in which there was strong government support, while at the same time trying to garner support through coercion and consent (Hultman, 2009). They created a guerrilla unit made up of mostly Africans who were deployed for subversive activities. RENAMO's strategy included destroying key points of infrastructure, and since this civil war dragged on for about 15 years, it meant that Mozambique's post-civil war administration faced the huge task of re-building the country.

From 1990 onwards, RENAMO managed to transform itself from a rebel movement into a political party that capitalised on the weaknesses of FRELIMO. As argued by Orre and Rønning (2017: 34), RENAMO became strongest in rural communities in the central to northern provinces of the country. Despite the differences between the two

parties, there were notable similarities between them. These included the fact that both parties transitioned from being guerrilla movements, which oriented both towards military-style authoritarianism. As will be discussed later, the ceasefire agreement signed by RENAMO and FRELIMO has been a very tenuous one, susceptible to being violated.

State institutions after the transition

Between 1975 and 1981, FRELIMO introduced several policies that had a positive effect on the country. For instance, its health policy ensured that the number of health clinics in the rural areas doubled. The government spent 11.5 per cent of its budget on healthcare as opposed to the 3.3 per cent spent by the colonial government (Albon, 2011). Healthcare policies focused mainly on primary healthcare and specifically on preventative care. FRELIMO also introduced several education policies and teacher-training programmes that helped to increase the literacy rate from 7 per cent to 28 per cent by 1980. This has grown steadily to 60 per cent in 2017 (Huffman, 1992; World Bank, 2019c).

On the economic front, not much was achieved. For example, in an attempt to boost agricultural production and radically transform the countryside heavily affected by the civil war, a collectivisation system, in which peasants and villagers were required to work in collective state farms, was introduced (Derluguian, 1990). In addition, much foreign aid flowed into the country. According Albie Sachs,[5] this cooperative collective working arrangement was a monumental failure. He narrates the failure of a rice growing project:

> I do not know why they decided to bring in Bulgarian experts on rice cultivation. The country spent a lot of very limited foreign exchange on bringing in tractors. They planted the seedlings, and the rice grew too quickly to the extent that even people who had no background in farming like me were requested to volunteer to cut it down. A lot was invested in the programme, but it was a failure, an expensive failure.

5 Albie Sachs is a former Constitutional Court judge and ANC liberation struggle underground activist who lived in Mozambique for over 11 years as an ANC activist. He had abandoned his university teaching job in England to be part of the liberation struggle in 1976. Interviewed on 26 August 2019.

Castel-Branco (1995) argues similarly, saying that collectivisation tended to centralise investment in state-owned businesses, concomitantly marginalising other sectors such as the peasantry. According to Castel-Branco, '… by 1982 over 3,000 tractors and 500 combine harvesters had been imported for the state farm sector, while the peasants were faced with a crying shortage of basic tools and consumer goods to exchange for their surplus production'. FRELIMO also began a process of nationalising its industries, but this resulted in further lowering production as the workers in these industries received no incentives to work optimally. Furthermore, the state abused and misdirected the aid that was given by friendly countries (Castel-Branco, 1995; Orre and Rønning, 2017). By the early 1980s, the economy began to fracture in part due to decaying infrastructure, droughts and misguided policies coupled with relentless attacks and destruction by RENAMO (Chabal, 2001).

In 1981, Mozambique applied for, but was denied, membership of the Council for Mutual Economic Cooperation (COMECON). COMECON was an institution that managed trade and economic development among socialist countries (Baur and Taylor, 2011). This denial effectively cut Mozambique off from the communist bloc, concomitantly pushing the country towards the west and so leading to the adoption of the structural adjustment programmes prescribed by the International Monetary Fund (IMF) from 1983 onwards. After the death of Samora Machel in a plane crash in 1986,[6] near Mbombela (formerly Nelspruit) in South Africa, and the appointment of Joaquim Alberto Chissano as the second president of Mozambique, the country's inflow of foreign aid, traditionally from the eastern bloc, began to diminish. Henceforth, the country was drawn into a neo-liberal system.

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6 While coming from a summit of African leaders in Zambia, Samora Machel's Russian-built plane crashed in the Lebombo mountains of the then Eastern Transvaal (Mpumalanga). Albie Sachs, interviewed on 26 August 2019, opines that the South African apartheid government was suspected of signalling a false beacon to the pilot, leading to the plane crash.

MOZAMBIQUE IN RELATION TO DEMOCRATIC CONSOLIDATION

State institutions and separation of powers in Mozambique post 1994

The signing of the 1992 Global Peace Agreement (GPA) between FRELIMO and RENAMO should be interpreted as an appreciation of the potentialities peace and an inclusive political system could engender in Mozambique. As alluded to earlier, Mozambique suffered a civil war between 1977 and 1992, which left many socio-political and economic institutions debilitated. As a result, the 15-year-long conflict, which was preceded by an equally long liberation struggle, bequeathed Mozambique a legacy of poverty, blight, violence and a dysfunctional state. Thus, at the signing of the Accord in 1992, Mozambique was one of the poorest and most economically backward countries in the world (Baur and Taylor, 2011). In part, the peace accord was meant to trigger a process of improving the socio-economic conditions of the citizens who had known no peace for a long time.

The 1990 constitution of Mozambique provides for the separation of powers. It does this by defining the organisation of political power within the state and identifies three distinct national sovereign public offices, namely that of the president, with a supporting structure called the council of the state attached to it; the assembly of the republic; and the judiciary. These public offices, at least on paper, are established on the principle of separation and the interdependence of power, and owe their obedience to the country's constitution and laws. Presidential and legislative elections are held every five years, and the president can serve a maximum of two consecutive terms.

However, political power in Mozambique is centralised around the executive, whose head is the president. Thus, winning presidential elections means the ability to control almost all state institutions. Orre and Rønning (2017: 22) capture this firm grip on state institutions:

He [President] appoints and dismisses: the provincial governors, the Prime-Minister and other members of the Government, the

Governor of the Central Bank, rectors of the state universities, secretaries of state, the ambassadors of the foreign service, the Attorney General, as well as all the top brass in the armed forces, the police and the security forces. He/she also appoints the presidents of the Supreme Court, the Constitutional Council and the Tribunal *Administrativo* (auditor general). He can also create and dismantle ministries and veto laws from the Assembly of the Republic.

This centralised power system is almost a mirror image of the political environment that existed during the transition period, when FRELIMO was the dominant party and could therefore mould the state and its institutions without any need for compromise.

The state of electoral democracy in post-1990 Mozambique

The post-conflict environment engendered by the 1992 peace agreement paved the way for some form of democracy. This gave the new political elite the space to champion pluralisms, including building an inclusive society that could embrace what Mafeje characterised as a new African democracy (Phiri and Macheve, 2014). Since the first post-conflict elections conducted in 1994, Mozambique has consistently held elections every five years. FRELIMO has continued to dominate the political arena and has won all national elections to date.

Of relevance to democratic consolidation between 1994 and the present is that Mozambique has managed several times to transfer power smoothly from one president to another, even though this transfer was within the same party. Respecting constitutional dictates regarding term limits is important in democratic practice. For Mozambique, even though power remained with the same party, internal changes in leadership – a handover of power to different individuals holding power – presuppose some level of democracy, both within the party and at state level. This possibility of winning an election could be the reason for RENAMO not returning to the bush despite losing all the elections.

Mozambique's democratic consolidation has always been tenuous, threatened by the fragility of its 1992 peace agreement, with residual tensions, including localised violent incidents, between FRELIMO

and RENAMO emerging time and again. In 2012, Dhlakama relocated to RENAMO's former wartime base in Gorongosa, and threatened to return to war, claiming that the FRELIMO government was robbing the country of its resources, and had cheated in elections. In fact, according to Phiri and Macheve (2014), Dhlakama did declare the end of the 1992 Peace Accord after claiming that FRELIMO was planning to assassinate him. Intermittent waves of military clashes followed this declaration, though they were not as widespread and intense as previously. Since then, there have been several peace negotiations between government and RENAMO, which culminated in the signing of a new peace agreement in August 2019 (Nhamirre, 2019).

Socio-economic indicators in Mozambique

At a macro level, positive developments have been registered on the economic front. Mozambique has performed very strongly in its gross domestic product (GDP) in the past few years. GDP growth in the 1990s averaged about 10 per cent and slightly declined to an average of 7.5 per cent between 2000 and 2010. Between 2011 and 2015, GDP averaged 7 per cent (Baur and Taylor 2011: 122; *Global Finance Magazine,* 2015). Such levels of phenomenal growth are commendable, considering the history of the country, including its debilitating 30 years of war and conflict. This level of GDP growth made Mozambique one of the ten fastest growing economies in the world. The growth is negated, however, by the fact that Mozambique is still highly dependent on primary products for export, and these do not earn much in terms of foreign currency.

Mozambique is endowed with huge reserves of labour, ample arable land, water and mineral resources, such as coal and gas. The country also boasts a strategic location, which, if properly exploited, can be of tremendous benefit. Four of the five countries that share borders with Mozambique are land-locked and depend on the Mozambique transport corridors to conduct global business (Gumende, 2010; World Bank, 2019a).

In 2010, huge gas deposits were discovered on the northern coast of the country. With this discovery, estimated at three trillion cubic metres,

many predicted that Mozambique would become one of the world's top producers of liquefied natural gas (Williams, 2013). Huge exploration projects are scheduled to begin production in 2023/24, and many Mozambicans are waiting for a gas boom and resulting spinoffs (*The Economist*, 2018a). However, some social and environmental activists have dismissed this optimism as misplaced, considering the massive environmental destruction and corruption that have to date rendered void the trickle-down effect envisaged from national endowments (Rawoot, 2019).The hidden debt scandal (discussed below) uncovered in 2016 was premised on the belief that Mozambique would be able to repay the concealed loans once gas exploration begins.

Despite these economic gains, and endowments, poverty levels in the country remain very high. Kleibl and Munck (2017: 207) blame Mozambique's unequal distribution of wealth and failing social system on the narrow focus on GDP growth. The 2016 World Bank report, 'Accelerating Poverty Reduction in Mozambique: Challenges and Opportunities', notes that while there has been some reduction in poverty, the levels in Mozambique remain very high, especially in rural areas where 70 per cent of the population resides.

In the northern parts of the country, especially in Cabo Delgado province, violence by armed groups has intensified since 2017. Some of these groups are associated with the international Jihadist (Islamic insurgency) ideology (Pirio, Pittelli and Adam, 2018); others are fighting over resources and drug trafficking (Frey, 2019). According to the United Nations Office on Drugs and Crime's (UNODC) Director of Terrorism, Massood Karimipor, 'Criminals and terrorists are exploiting weak borders and surveillance in general, particularly in Cabo Delgado province, to raise funds, plan, and mobilise criminal and violent activities' (Frey, 2019). These localised wars have the potential to destabilise the region, considering the provinces' proximity to Tanzania, Malawi, Kenya and, even, Somalia.

Inequality is a serious problem in Mozambique, and the impressive GDP growth experienced between 1994 and 2018 has not trickled down to benefit the broader population. In 2014, the country's GINI index was at 54.0 (World Bank 2019b), which is too high for a country that seeks to reduce poverty. Sumich (2013: 114) recognises that democratisation

in Mozambique occurred simultaneously with increasing inequality, in the process nullifying many rights that should be associated with democratisation. This is despite the fact that FRELIMO's socio-economic policies capture all the key issues faced by the country, such as universal access to better education, water and health services, as well as the strategies to be followed to achieve these goals. The question is why these challenges keep increasing. Academic and FRELIMO member Yolanda Acerline[7] argues: 'You can see many people getting poor, while on the other side you can see some few people getting richer. For some of us this is worrying. There is no one who is defending the rights of the workers, and no one defending the rights of the poor.' This view suggests that these problems are the outcome of a ruling party which has been sucked into an agenda that does not place the human condition of citizens at the top of the agenda. As argued throughout this report, it is this inherent weakness of a sole focus on liberal democracy that celebrates formal political rights that can contribute to a spike in inequality and corruption and result in the emergence of self-centred leaders.

It should also be noted that, even with regard to formal political rights, there have been many weaknesses in the country. For instance, the way the 2018 local government elections were conducted, with recorded irregularities and violence against members of the opposition (World Bank, 2019a), demonstrate that much more needs to be done to ensure a free political atmosphere. The Economist Intelligence Unit (2019) categorises Mozambique as an authoritarian regime, scoring the country at four out of ten in its 2019 democracy index. The October 2019 national election was also characterised by violence directed towards civil society and opposition party members, and this may result in a further downgrading of the country's democracy status.

Phiri and Macheve (2014) use Nikolai Petrov's concept of 'managed democracy' to understand processes of democratisation in Mozambique. They use this concept mainly to highlight the way the ruling elite has managed and manipulated the country's economic, social and political institutions to achieve their own narrow ends. The idea of a managed democracy questions the quality of democracy in

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7 Yolanda Arceline, academic and FRELIMO member, interviewed on 5 June 2019.

a country. Governance systems in developing countries often grapple with ever-increasing public discontent due to poor management of political processes and lack of improvement in socio-economic conditions. In order to hide or suppress this discontent, some ruling elites engage in 'anti-politics' strategies that block channels of popular expression and participation. These strategies include the conflation of state and party structures to create what can be referred to as party-states – where the boundary between the ruling party and the state becomes blurred. This blurring of lines between state and party has been the case in Mozambique for a long time (Afrobarometer, 2019). Ordinary people find it difficult to differentiate the party from the state, with the Afrobarometer (2019) survey indicating that only 27 per cent of Mozambicans can distinguish between the two.

FRELIMO's continued domination of state power and dynamics within opposition parties has also contributed to the weakening of the opposition, which has led to voter apathy. This has had the concomitant effect of lulling the ruling party into some degree of arrogance. For example, in 2016, news about what is now known as the 'hidden debt scandal' broke, generating shockwaves nationally and internationally. Between 2013 and 2014, President Guebuza's administration secretly guaranteed and contracted loans by state companies, totalling US$2.2 billion, from overseas financial institutions. This was done without consulting parliament as constitutionally required, which suggests corrupt intentions (African Arguments, 2019).

In the political realm, trends show that voter turnout in Mozambique has been on the decrease, starting at 88 per cent in 1994 and dropping to 48.6 per cent in 2014. In the 2019 elections, turnout slightly increased to 51 per cent (Global Security, 2019). The build-up to the 2019 election was characterised by violence, which, to an extent, compromised the integrity of the electoral process (Zitamar News, 2019). Even though the ruling party won with a majority of more than two-thirds, the violence that preceded the voting compromised the development of the 'new democracy', which emphasises popular livelihoods, popular participation and popular power, as alluded to by Shivji (2011) and Mafeje (2002). Thus, even though FRELIMO is dominant, it is far from being hegemonic. Phiri and Macheve (2014) argue that '... calling

Mozambique a stable democracy is a grave misjudgement so long as power continues to be increasingly exercised by one dominant party' (Phiri and Macheve, 2014: 51).

Even within FRELIMO, power is not decentralised. It is exercised by a few political elites within the party, and this promotes patronage and corruption. Hanlon (2009: 8) also discussed several business deals and opportunities that benefited only those connected to the political elite. Many influential FRELIMO politicians are implicated in this 'elite capitalism', including some former presidents. Hanlon contextualises this endemic corruption and patronage system:

> The Guebuza family, for example, owns many Mozambican companies. The main company partly owned by the President is Intelec, which is involved in electricity transmission and equipment, telecommunications, gas, consulting, cement, tourism, construction, Tata vehicles, and fishing... Intelec also holds 5 per cent of Vodacom Moçambique... Guebuza's children and relatives have interests in various companies, often in participation with other children of the elite, and are involved in telecommunications, mining, construction, tourism, environmental issues, petrol stations, and a new grain terminal; several consultancy companies have also been established.

This alludes to endemic corruption, which is also part of a managed democracy. This is besides the fact that political elites linked to the opposition are marginalised, which, in part, is responsible for the resentment within RENAMO and the other smaller parties.

The government of Mozambique has admitted in the 'Report on Transparency, Governance and Corruption' (July 2019) written for the IMF, that the country is suffering from systemic corruption, practised by politicians and bureaucrats alike (Hanlon, 2019). Corruption in Mozambique is estimated to have cost the country nearly US$5 billion between 2002 and 2014 (*The Economist,* 2018a). To contextualise the magnitude of this corruption, the World Bank (2016) estimates that two million Mozambicans could have been lifted out of poverty had the fruits of economic growth been distributed equitably across society.

Civil liberties and civil society in Mozambique

Title III, Articles 35–125 of the Mozambican constitution expound on fundamental rights, duties and freedoms. Principles of universality – equality before the law regardless of colour, race, gender, ethnic origin, place of birth, religion, level of education, and social position – are enshrined in the constitution. Furthermore, the constitution states that all citizens have a right to life, to physical and moral integrity, and hence the death penalty has been abolished. Freedoms of expression, assembly, protest, association and worship are also enshrined in the constitution, as well as the right to form and participate in political parties.

Most importantly, the Mozambican constitution concludes the section on liberties by committing to the principle that the constitutional principles in respect of fundamental rights shall be interpreted and integrated in harmony with the Universal Declaration of Human Rights and with the African Charter of Human and Peoples Rights (UN Women Gender Equality Constitutional Database, 2016). Deference to the latter is very important because the African Charter (OAU, 1981) expressly commits member states to paying attention to the right to development and recognises that civil and political rights cannot be dissociated from economic, social and cultural rights both in their conceptualisation and in their universality. If respected, this broad form of an understanding of rights and freedoms is reasonably close to what Mafeje has termed the new African democracy explained earlier.

Despite these libertarian provisions in the constitution, which should encourage the development of civil society, this has not been the case in Mozambique. The functioning of civil society has been inhibited. This is a direct result of a dominant political party that controls and manipulates the political environment in order to manage democracy, and the rural nature of Mozambique's social organisation, which makes coalescing difficult. The weakness of the civil society sector can also be attributed to the sector's dependency on donor funding for survival (Orre and Rønning, 2017). Donor funding globally is on the decline, and those who depend on it are likely to decline concomitantly. Kleibl and Munck (2017: 208), who sought to collect civil society data in rural areas of Mozambique, concluded that rural-based, non-state actors

such as religious organisations, traditional leaders and NGO staff were increasingly replacing state functions within rural communities. They argue that this has had the effect of rendering the state complacent and also of causing the demobilisation of local activists, thus exposing rural communities to further marginalisation.

As noted by Amnesty International's (2019) report on Mozambique's 2019 elections, there is a worrying roll-back of respect for human rights. The report gives examples where human rights defenders, religious bodies and members of the media have been intimidated. The report presents evidence of excessive use of force by the security forces, which has tended to suppress freedom of association and expression. Thus, despite the fact that the constitution of Mozambique recognises civil liberties including the right of association, some state institutions and the ruling party have abrogated to themselves the right to decide which and whose voices can be heard.

Summary

As argued by Oscar Monteiro,[8] the difficulties Mozambique faced in managing its political transition and consolidation of democracy were a function of many drivers, not least being how the country gained its independence, which was abrupt as explained earlier. This was compounded by the fact that the new ruling elite inherited an attenuated state, and FRELIMO, ill-prepared to govern, had to do the best it could. The civil war further debilitated the inchoate institutions.

Oscar Monteiro, in recognising the weaknesses of procedural democracy, contends that FRELIMO became more preoccupied with elections, and less concerned with processes of popular participation. As a result, civic education became narrowed to electoral education. Monteiro argues:

Not enough was done so that democracy would be a serious thing [such as] choosing the best and most competent. There was a huge decrease in political activity, political democracy, political debates,

8 Oscar Monteiro, academic, former Mozambican cabinet minister and FRELIMO Member, interviewed on 30 April 2019.

ideas and respect of common and public good… When looking at National Assemblies, we realise that it is a job done for pay. The culture of entitlement among the political elite has negatively impacted democracy. The growth of individualism, of doing what pleases us at an individual level, is a negation of democracy.[9]

Extreme climate conditions in Mozambique, including floods, drought and cyclones, exacerbate the above factors, hinder development and compromise food production. Despite the predictability of most of these natural disasters, Mozambique is always ill-prepared. As a result, massive budgetary diversions are made to deal with the consequences of these natural disasters. The latest such incident was the destruction in March 2019, caused by Cyclones Idai and Kenneth, in which more than a thousand people died, close to two million people were in need of humanitarian aid, and infrastructure and crops sustained millions worth of destruction (World Vision, 2019; UNICEF, 2019).

With regard to education, in 2017 a study by USAID (cited in Blessman, 2017) found that 94 per cent of young girls in Mozambique enrol for primary education, but more than half drop out by the fifth grade, and only 11 per cent continue to enrol for secondary education. Just one per cent continue to college level. Consequently, literacy rates among women are very low. Given the correlation between illiteracy and poverty, this makes poverty in Mozambique also a gendered challenge. According to UNAIDS, Mozambique has the eighth highest prevalence of HIV infection in the world, and in 2015 about 1.5 million people were living with the virus. Close to one-third of the population suffers from malnutrition. UNICEF estimates that 43 per cent of Mozambican children under five suffer from this condition, while 45 per cent of deaths among under-fives can be attributed to malnutrition (Blessman, 2017).

Statistics such as these are a blemish on a government that claims to be democratic. With a quarter of the population not working, and the girl child staying out of school, there is still a long way to go before Mozambique can claim to be an example of Mafeje's new African democracy.

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9 Interview with Oscar Monteiro on 30 April 2019.

Democratic transition and consolidation: The case of Algeria

BACKGROUND AND CONTEXT OF TRANSITION PERIOD

This section assesses the processes of democratic participation and consolidation in the former French colony of Algeria. It gained its independence in 1962, and has since been a great champion of anti-colonial struggles, especially on the African continent. The section investigates both 'formal' and 'informal' avenues for participation and expands on their impact. Part one discusses Algeria's struggle for independence from France. Part two argues that this struggle empowered the Algerian People's National Army (PNA) to play an overarching role in Algerian politics and society. The third part of this section on Algeria critically examines the impact this has had on democratic consolidation in the country. Overall, this section adopts a broader approach, not only looking at changes in the locus of power, but also expanding on industrialisation and the improvement in living standards in post-independence Algeria.

The section concludes with a discussion of the most recent rounds of protests, which have to date led to the resignation of long-time president Abdelaziz Bouteflika. It argues that these protests are different from other protests in that they are aimed at the political system, are relatively peaceful and have been able to incorporate parts of the country's large bureaucracy. Yahir Zoubir,[10] who argues that 'Algeria is an illiberal democracy, [and] its rentier state economy is dependent on oil revenues', sees the current political movements in the country as 'pushing for a transition', which was never completed at the time of independence. However, it is argued that for these protests to be successful, a leadership core needs to be appointed. Furthermore, elements from within the banned Islamic Salvation Front (FIS) need to be allowed to play a role.

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10 Yahir H. Zoubir, Professor of International Studies and Director of Research in Geopolitics at Kedge Business School, interviewed via email exchanges, November 2019.

Colonial experience and impact

The specificities of Algeria's independence struggle have significantly influenced its political system and the post-colonial institutions that were developed (Library of Congress, 2008; Global Security, 2011; Boserup, Martinez and Holm, 2014). Previously a French colony, Algeria experienced one of the most violent independent struggles in the post-Second World War period, resulting in the deaths of tens of thousands of civilians (Global Security, 2011). The struggle occurred over a 20-year period, following an initial call for independence in 1943 (Global Security, 2011). The country's geostrategic significance, coupled with the number of French settlers there, meant that France dispatched over 400,000 troops and 150,000 auxiliary forces to try and halt the independence drive (Library of Congress, 2008; Global Security, 2011; Boserup, Martinez and Holm, 2014).

Furthermore, Paris attempted, in both 1947 and 1958, to adopt new constitutions, which would have offered Algeria's majority Muslim population more rights. These attempted reforms failed, as they did not offer full enfranchisement to the population. The 1947 constitution, for example, envisaged separate chambers for the colons – the French settler population in Algeria – together with about 8,000 '… meritorious Muslims, and one for the millions of other Algerian citizens, while although the 1958 version was more substantive and supported by around 80 per cent of Algerians, it arrived too late in the independence struggle' (Library of Congress, 2008). There was widespread disapproval of these proposed reforms – from a growing opposition in France, domestically within Algeria, and even internationally, where self-determination was seen as inevitable following the Second World War. This opposition resulted in the Evian Accords of early 1962, which led France to relinquish control over Algerian territory and to provide colons protected status for a three-year period only (Global Security, 2011).

Prior to these accords, the colons, together with sectors within the French military deployed to Algeria, organised two rebellions, in 1960 and 1961, antagonising the De Gaulle regime, and making it easier for France to part with its strategic territory (Global Security, 2011).

Between 1871 and 1872, Algerians had also revolted; the Unfaq Urrumi (Mokrani revolt/French War) saw around a third of the population try unsuccessfully to take advantage of Prussia's defeat of France to force the colons from Algerian territory (Lutsky, 1969). Hundreds of thousands of locals took part in this rebellion, and France was forced to deploy an 80,000-strong force to halt the war (Lutsky, 1969). Religious authority was key in galvanising support for this revolt, which was declared a Jihad by the Rahmaniyya order. The revolt only ended after the leader, Mohammed El Mokrani, died fighting with French troops, and the subsequent capture and death of his brother, Ahmed Boumezrag Mokrani, in 1872.

Forms of liberation struggle and ideology

The liberation struggle sought to combine three broad strands: nationalism, socialism and Islam (Global Security, 2011). In its early years, through the French-based Star of North Africa organisation (STAR), socialism and universal suffrage were the main strand, while by 1943, after a manifesto issued by over 50 influential figures, nationalism and Islam played an increasing role (Library of Congress, 2008; Global Security, 2011). Further, after the failed municipal election of 1947, in which the indigenous Movement for the Triumph of Democratic Liberties (NTLD) ended up with only nine seats despite gaining most votes, the impetus to take up arms increased. This led to the creation of the Special Organisation (OS) and Revolutionary Council for Unity and Action (CRUA), which in turn resulted in the formation of the National Liberation Army (ALN). During this time the armed component of the liberation movement increased its control. At a meeting to map out policies held between September and October 1956, influential political actors such as Ahmed Ben Bella and Hosine Ait Ahmed – who had fled to Cairo to gain international support for the revolution – were excluded (Global Security, 2011).

TRANSITION AND THE ENTRENCHMENT OF THE MILITARY (1965–1988)

The state of the state

Algeria subsequently became a one-party state, with elements of socialism and Islam as its ideology, mainly to reconcile the ideas of its majority Muslim population and the socialist leanings of the National Liberation Front (FLN) and ruling elite (Ghanem-Yazbeck, 2019). In terms of our definition of a democratic transition, there were some successes, but there were more failures. The new Algerian government was able to govern, implement policies and for some time possessed some popular legitimacy (Bouandel, 2003; Boserup, Martinez and Holm, 2014). Further, the country's oil wealth was used to engender a process of rapid industrialisation (Greenhouse, 1988). Access to education and healthcare was improved, and the country quickly moved into the ranks of middle-income countries.

The primacy of the PNA and lack of space for civil society participation

From early on, there was a clear lack of separation between the party, state and military apparatus (Bouandel, 2003; Ghanem-Yazbeck, 2018b). The ruling FLN was the sole party allowed to operate, and there was no real check on the power of the president. The PNA, however, was the real power behind the throne. Its significance in the war of liberation had provided it with the power, leverage and, importantly, legitimacy to influence the country's politics, which it continues to exercise (Bouandel, 2003; Zoubir, 2013; Ottoway, 2019). All of Algeria's presidents, from its first, Ahmed Ben Bella, to Bouteflika, were previously military officials and/or owe their ascension to the military (Addi, 2015; Ottoway, 2019). Ben Bella was removed in 1965 when he clashed with the then military head, Houari Boumediene, amongst others, over the firing of Bouteflika as foreign minister. Boumediene ruled until his death in 1978. Chadli Benjedid, Boumediene's replacement, was chosen by the PNA and removed in 1992 when his liberalisation threatened the PNA's continued control

of the country. Bouteflika himself announced his resignation in April 2019, only a few hours after the military chief of staff, Ahmed Gaid Salah, stated that the PNA would no longer support him (Roberts, 1995; Ottoway, 2019; Werenfels, 2019). It was even able to oppose the 'ruling' National Liberation Front (FLN) during the early 1990s, when it suspended the constitutional process and refused to negotiate with the Islamic Salvation Front (FIS) despite the FLN's call for negotiations (Roberts, 1995).

Civil society monopolisation and control

During the early period between 1965 and 1988, there was minimal space for any form of independent civil society participation (Bouandel, 2003; interview with Yahir Zoubir). The Party for Socialist Resistance (SRP) and Socialist Forces Front (FFS) operated clandestinely, while Islamist organisations such as Al-Qiyam Al-Islamiyah were banned (Bouandel, 2003; Ghanem-Yazbeck, 2019). Even the independent student organisation, which at the time had minimal influence, was forced to disband in 1969 (Bouandel, 2003). Moreover, the regime sought to initiate and control its own organisations. Women's and youth organisations were created, and the General Workers' Union (UGTA) was brought under the control of the regime, and, until 1988, it was the only union allowed to operate (Bouandel, 2003). Many commentators assert that the country has to date not yet undergone a democratic transition. Steven Friedman,[11] an academic and democracy expert, says, 'Algerians do not have much of a say in what affects them. It is basic that they are not going to have a real say if they cannot elect the people they want. They have been on the streets precisely to try and have a say.' This raises the very point of whether there has been any democratic transition in Algeria. Friedman sees the lack of avenues for popular participation as a critical constraint on the exercise of actual democracy and refers to the current protests in support of this assertion.

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11 Steven Friedman, academic and democracy expert, interviewed on 28 August 2019.

The FLN and the lack of 'real' power and internal democracy

Formed in 1954, the FLN was the main party coordinating Algeria's liberation struggle (Library of Congress, 2008; Global Security, 2011; Boserup, Martinez and Holm, 2014). Although it was previously organised in executive and legislative units during the liberation war, its military wing, the National Liberation Army (ALN), gained ascendency (Global Security, 2011). This continued after independence when the ALN, now the PNA, was influential in choosing party leadership. Between 1965 and 1988 it was the only party permitted to operate under Algeria's one-party socialist constitution, although power was generally exercised by the country's president in tandem with the PNA. Between 1965 and 1979, for instance, it had no national convention, with decisions mainly being made by Boumediene through presidential decrees (Ghanem-Yazbeck, 2018a). Even the decision to appoint Benjedid, Boumediene's replacement, in 1979 was adopted in an assembly composed of senior military officials, and only later endorsed at the 1979 FLN congress (Ghanem-Yazbeck, 2018a). Moreover, when officials such as Ben Bella fell out with the PNA, they were not allowed to play any significant role in the party, creating an environment in which there was little tolerance for dissent. Ben Bella eventually formed a new political party, the Movement for Algerian Democracy (MDA), to re-enter the political scene after 1988.

The party did, however, open up following the 1988 riots and supported the FIS in its attempt to obtain recognition and legalisation during the early 1990s (Roberts, 1995). This was despite the fact that the MDA gained only 50 of the 230 seats in the country's first multi-party legislative elections in 1991–92, and only 28 per cent in the municipal elections prior. This meant that it was now an opposition party that stood to gain most from the FIS's exclusion. Further, the MDA participated in the 1994 Sent' Egidio Catholic Community negotiations in Rome and endorsed the Rome Platform calling for negotiations and legalisation of the FIS (Roberts, 1995). This met with much opposition from the military, which instigated rebellion within the FLN's ranks (Roberts, 1995). In 1996 Abdelhamid Mehri

was replaced as FLN leader, bringing the party back into the military's orbit (Roberts, 1995; Bouandel, 2003).

DEMOCRATIC CONSOLIDATION (1988–2019)

The state of the state: Continued importance of PNA and its power

The political structure described above has ensured that the country has been relatively stable since independence, despite the fact that the PNA remains the only institution capable of exerting 'real' power. Protests in 1988 did lead to the system being partially liberalised, with political parties now being allowed to run. However, the threat of a real alternation in power following the Islamic Salvation Front's (ISF) victory in the first round of the 1991 parliamentary elections led to the democratic process once again being suspended (Roberts, 1995). The process was resumed in 1997. However, 'real' democracy is still lacking. There are formal democratic institutions, including a legislature and judiciary, but their powers are limited, especially in relation to containing the state and political elite (Ghanem-Yazbeck, 2019). Furthermore, their infiltration by powerful state actors has meant that these institutions have often been manipulated by *Le Pouvoir*[12] to fulfil obscure objectives. Significant in this regard has been the power of the PNA's intelligence apparatus, formally known as the Directorate of Intelligence Services (DRS) (Deen, 2014). The DRS's investigative powers have been used to oust individuals straying too far from the elite line, for example, the outcomes of the Sonatrach and Sonatrach II investigations. These investigations resulted in many senior officials being arrested and subsequently dismissed under the guise of corruption, while in actual fact their arrests were more a result of elite competition between the military and the presidency. The PNA even instigated the formation of the National Democratic Rally (RND) and its victory in the 1997 legislative polls as a means of punishing the FLN for its intransigence.

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12 *Le Pouvoir* means 'the power'. In Algeria this concept is used to refer to a state where the military and a select group of unelected people make important decisions about the country.

This has been aggravated by Bouteflika's ouster, since he had been trying to strengthen the power of the presidency after many within the PNA expressed their displeasure at his standing for a fourth term in 2014 (Khider, 2018). The DRS was disbanded in 2016, even though it continues to hold much power, while in 2018 Bouteflika replaced dozens of army personnel in an attempt to weaken the institution, with little success. There has thus been only limited democratic consolidation since independence, even though there was an alternation in power between the FLN and RND in 1997, and although the FIS was victorious in the 1990 municipal vote (Roberts, 1995).

Elections have occurred regularly since 1997. However, these have resulted in little substantive change, especially in relation to the separation of powers. This pattern is different from most other political systems characterised by dominant parties whose political strength provides an enabling environment for the abuse of power. This is because only limited checks and balances on power are present in such a system, and because of the ruling party's ability to delegitimise most forms of opposition (Southall, 2001; Suttner, 2004). The ruling FLN and RND are not dominant in the area of policy formation despite their electoral success, and the RND and increasingly the FLN are no longer in possession of a unifying historical project (Butler, 2009). In the Algerian political system, this role has been fulfilled by the PNA, which prefers to leverage this power more discretely. Presidential candidates require the PNA's support to run for office; high-level investigations are often carried out by its institutions to keep the ruling elite in step, and it has interests in much of the country's economy (Ghanem-Yazbeck, 2018a). The country's export, telecommunications and pharmaceutical sectors are largely controlled by individuals close to the PNA, who have benefitted from generous loans and artificial monopolies (Ghanem-Yazbeck, 2018a).

Elite competition

Although the military holds most power in Algeria, there is elite competition within *Le Pouvoir* (Werenfels, 2019). There is often jostling for power and influence between the military, party leaders,

business elite, presidency and intelligence services. Between 1965 and 1979, and then again between 1992 and 1999, the military had almost absolute power, while in more recent years it has had to share it with the presidency and business elite (Boserup, Martinez and Holm, 2014). Bouteflika has also worked within this milieu, trying to strengthen the presidency at the expense of the military (Deen, 2014; Khider, 2018; Werenfels, 2019). In 2014 he 'forced' the resignation of the powerful head of the Directorate of Intelligence Services (DRS), Mohamed Mediene (Toufik), and moved much of the Directorate's prerogative to the army's chief of staff, eventuating in the replacement of the Directorate in 2016 and attempts ever since to shift its remit to the presidency (Boserup, Martinez and Holm, 2014; Khider, 2018; Ghanem-Yazbeck, 2019). However, the DRS returned in 2018, allegedly launching a sting operation on the police head and close ally of Bouteflika, Abdel Ghani Hamel (Khider, 2018). In the view of the DRS, Hamel failed to facilitate better coordination between the police and military. He was removed, along with six senior provincial police chiefs and the head of the police's investigative directorate (Khider, 2018). Bouteflika also replaced 12 military generals, including the head of the army and the powerful general in charge of the army's central security directorate, tasked with investigating corruption (Ghanem-Yazbeck, 2018b). Bouteflika later arrested and subsequently freed five of the arrested generals, likely as a means of gaining the PNA's support for his now-failed fifth-term bid.

Furthermore, even within different circles there is often contestation between factions. During the 1990s contestation within the military occurred between the eradicationists and conciliators over the legalisation of the FIS (Roberts, 1995). Recent years have also seen contestation between the DRS and the military's chief of staff, instigated by Bouteflika (Boserup, Martinez and Holm, 2014; Werenfels, 2019). Significantly, all these elements benefit from the system and its opaque centres of power, and are thus unlikely to seek an all-out confrontation, preferring to continue their struggle behind the scenes. Amar Saadani, the former secretary-general of the FLN, was thus cautioned by Bouteflika and later lost his position in the FLN when his criticisms of the DRS became too intense (Boserup, Martinez and Holm, 2014).

After Bouteflika's resignation, a reconfiguration could be observed within the *Le Pouvoir*. While Bouteflika's political allies, such as Ali Haddad and Ahmed Ouyahia, were arrested, Bouteflika's brother Said has been working with Mediene to put forward a new candidate who would be acceptable to *Le Pouvoir* as a whole. This was despite the perceptions that Said and Mediene have supposedly been on different sides (it is argued that Said's supporters orchestrated Mediene's demise in 2014). The consensus candidate would have likely been Ramtane Lamamra, the country's former foreign minister and senior advisor to Bouteflika. This is now unlikely considering Lamamra's closeness to Bouteflika, which will not be acceptable to protesters.

Political pluralisms: Political parties

Since 1988, roughly 40 smaller parties have been legally allowed to operate in Algeria, with most standing for political office. These are generally nationalist, leftist and Islamist in orientation (Dessi, 2011; Boserup, Martinez and Holm, 2014). Many (such the Movement for an Islamic Society (MIS), now the Movement for Society of Peace, MSP) were formed by the PNA as a counterweight to the FIS. MIS thus supported the military's decisions in the 1990s, while the party in recent years has received key government positions (Boserup, Martinez and Holm, 2014; Ghanem-Yazbeck, 2018a).

Most are thus not able to offer a cohesive alternative to the ruling elite and so have limited appeal. Furthermore, as observed above, they are often co-opted by the regime (Dessi, 2011; Ghanem-Yazbeck, 2018a). This has caused more fragmentation: the Islamist bloc, which consisted of three parties in the late 1980s, has splintered into more than ten parties today (Ghanem-Yazbeck, 2019; Fabiani, 2017). Individuals now join parties for patronage and the benefits conferred on party officials, leading to a lack of popular trust amongst the public (Ghanem-Yazbeck, 2018b). The state's vast oil resources have facilitated this patronage: prior to amending the constitution in 2009 to allow him to run for a third term, Bouteflika raised the salaries of members of parliament by over a thousand dollars. The changes were duly accepted, without the need for a referendum (Boserup, Martinez

and Holm, 2014). This has weakened trust for the FLN amongst the public. However, despite the 2011 uprisings and their subsequent impact on the region, the FLN and RND have largely maintained their seat complement, with the influence of Islamist groupings actually waning. So weak has been their legitimacy that most Islamist party leaders were ostracised when trying to support the protests that successfully advocated for Bouteflika's non-eligibility to serve a fifth term (Ghanem-Yazbeck, 2019).

The regime continues to repress political parties that provide a significant alternative, though this alternative may not necessarily be deemed progressive. The FIS continues to be banned, while the law regarding the non-eligibility of parties formed on religious, ethnic or regional lines remains.

Citizen disillusionment

Repression of the opposition has caused growing disillusionment and apathy within the population, especially since Bouteflika regularly changed the constitution to grant himself more powers. Turnout in the 2017 legislative poll was a mere 35 per cent, while the 2017 Arab Barometer Survey saw only 14 per cent of Algerian respondents report a favourable view of politicians (cited in Ghanem-Yazbeck, 2018b). Significantly, the ruling FLN gained around 1,200,000 votes in the 2017 vote, which is around 2,000,000 less than the FIS in 1991's first round vote (Fabiani, 2017). Friedman, however, problematises the notion of apathy. In responding to a question about the effects of apathy in a democracy, Friedman says:

> I do not think that there is such a thing… If people stay away, they generally have a reason for doing so. Sometimes there are constraints which prevent people from participating. The measure of a democracy is collective action. Evidence shows that some people stay away because they are not happy with the party they support. That is not apathy, but anger.[13]

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13 Steven Friedman, academic and researcher, interviewed via email, August 2019.

Friedman further argues that citizens usually only stay away when they calculate that their participation will have little impact and/or will negatively impact their material conditions. In some instances, people stay away not to make a political statement, but out of fear that if they do not vote as those in power require, they may be punished in one way or another.

Civil society

In relation to civil society, the regime uses a co-optation and containment strategy similar to the one used with political parties (Bouandel, 2003; Boserup, Martinez and Holm, 2014; Ghanem-Yazbeck, 2018a). This is despite the fact that many civil society organisations were legalised after the 1989 constitutional change, since the government sees these as an important counterbalance to political parties: around 90 of the 190-seat military-installed national assembly members between 1992 and 1997 were from civil society organisations (Boserup, Martinez and Holm, 2014; Ghanem-Yazbeck, 2018a). In addition, the government has recognised around 50,000 NGO groups, most of which are supporters of the regime. In 2004 state-sanctioned NGOs even volunteered to operate polling stations, while the UGTA continues to be an important means of securing worker votes (Boserup, Martinez and Holm, 2014; Ghanem-Yazbeck, 2018a).

More independent-minded institutions have, however, been repressed through various means (Boserup, Martinez and Holm, 2014; Ghanem-Yazbeck, 2018b). A 2012 law on association, coupled with restrictions on international financing, has been used to limit the number of NGOs (Ghanem-Yazbeck, 2018b). The government recognises 50,000 NGO organisations, with around 60,000 operating outside the legal milieu (Ghanem-Yazbeck, 2018b). Further, where the state perceived these organisations as a threat it created rival organisations. Moreover, harassment, arrests and trumped-up charges have also been used to limit NGO activity (Boserup, Martinez and Holm, 2014; Addi, 2015). The notorious National Publishing and Advertising Agency (ANEP) has been used to limit free speech, while arrests and repression have been used to limit freedom of association

(Boserup, Martinez and Holm, 2014; Addi, 2015).

However, the Arab Afrobarometer Survey (Ghanem-Yazbeck 2018a) says 75 per cent of people have a favourable view of the military and 60 per cent of the police, alluding to the dominance of the security apparatus in the country. Many view the security apparatus as the only capable institution in the country, because of its successes in tackling militancy, and because of the PNA's accomplishments in being able to rule from behind the scenes. The protests in 2019, which led to Bouteflika's resignation, were thus mainly against the presidency and business elite, with limited numbers calling for the resignation of Gaid Salah. Further, even though the calls for Gaid Salah's removal have increased, many have not directly called for a weakening of the powers of the PNA.

The state and development: Socio-economic indicators and the use of resource revenues

Algeria is the continent's largest producer of liquefied natural gas (LNG) and the third largest producer of oil (Dessi, 2011; Boserup, Martinez and Holm, 2014). This has allowed it to generate large surplus reserves, which Algiers astutely uses to ensure that socio-economic demands do not become politicised. It is also able to use this surplus to oil its patronage network, creating and ensuring the compliance of a significant business elite (Boserup, Martinez and Holm, 2014). This elite has historically become beholden to the regime, strengthening its grip and undermining tendencies to opposition.

Furthermore, the state has responded to contestation by allowing limited rights, which it curtails as and when it deems necessary. Multi-party democracy was initiated after the 1988 riots, while the emergency law, which has been in effect since the subversion of democracy in 1992, was revoked following the 2011 protests (Dessi, 2011; Werenfels, 2019). In 2011 around a dozen people died following the protests, significantly fewer than the 500 killed during the 1988 protests (Dessi, 2011; Boserup, Martinez and Holm, 2014). This was despite the fact that the 2011 protests were larger in number and occurred in more urbanised settings (Dessi, 2011).

Moreover, Algeria initiated an oil stabilisation fund in the early 2000s to prevent hydrocarbon resource price fluctuations, which can cause revenue shocks, as occurred in 1986 and led to the 1988 protests (Boserup, Martinez and Holm, 2014). The government has dispensed around 50 per cent of hydrocarbon revenue directly to the population, through subsidies, loans and infrastructure development, and indirectly through patronage networks (Boserup, Martinez and Holm, 2014; Cigainero, 2014; Ghanem-Yazbeck, 2018b). This has resulted in significant growth and development despite the lack of 'real' democracy. GDP per capita has increased from around US$1,600 in 1999 to US$4,800 as of the first quarter in 2018 (UNDP, 2019). Further, the literacy rate is over 80 per cent and life expectancy has increased to 76 years (UNDP, 2019). The country is ranked highly in terms of the Human Development Index (HDI), with a 2017 HDI of 0.755 (UNDP, 2019). This has meant that while protests since the 1990s have been frequent, most have not advocated wholesale regime change.

Summary

The 2019 protests, which commenced as a result of Bouteflika's intention to stand for a fifth term, despite his old age and continued illness, have continued ever since and have the potential to substantively reshape the country's political landscape. These protests, which have seen large numbers of people continually call for the uprooting of the regime, are different to the myriad protests that the country had previously experienced (Ottoway, 2019; Werenfels, 2019).

The most significant of these differences is the fact that they are overtly political and are not merely demanding more employment and services. This means that the regime will not be able to deploy its resources to placate protesters as was done in 2011. *Le Pouvoir* has thus struggled to respond to the demands of the masses. It has tried to orchestrate a minor purge, with many government officials being arrested. However, it is not able to respond to the more substantive calls for change. In the days just after Bouteflika stepped down, Gaid Salah accused those protesting against the military of being traitors who are working for outside powers (Al Jazeera, 2019). The PNA

seems to be reverting to its previous tactics. However, it has not yet intensified the use of violence to crack down on the protests.

A second difference is that, unlike in previous protests, the post-Bouteflika protests have significantly galvanised the country's bureaucrats. A key reason for *Le Pouvoir's* inability to organise an election after Bouteflika stepped down has been the unwillingness of judges to oversee the vote (Djeki, 2019). Furthermore, unlike with previous campaigns, the electoral commission strictly enforced the candidacy rules, meaning that the two candidates who sought to run in the now-postponed poll were disqualified.

Thirdly, unlike previous protests, the post-Bouteflika demonstrations have been very peaceful. There have been no real 'riots' as commonly understood. This has meant that the military's warnings against instability and violence have largely failed. Previously, the regime has been partly successful in cautioning citizens against protests by scaremongering about events such as Algeria's civil war (between 1991 and 2002), and the Libyan civil war in 2011 (Ghanem-Yazbeck, 2018a; Boserup, Martinez and Holm, 2014; Ottoway, 2019).

However, unlike in Sudan under both the Sudan Call and the Forces for Freedom and Change, protesters have not selected a leadership core to negotiate with the regime. In Algeria the 'formal' political opposition could have assisted in this process. However, their previous co-optation has weakened their credibility (Werenfels, 2019). Significantly, *Le Pouvoir* is unlikely to hand over power easily. The nature and duration of its period in charge means that a protracted, difficult process will be required to substantively alter the system. Moreover, *Le Pouvoir* is adept at divide and rule, and the current strategy adopted by protesters plays into its hands. *Le Pouvoir's* ability to manipulate crises to renew and strengthen itself will be difficult to undermine.

Democratic transition and consolidation: The case of India

BACKGROUND CONTEXT OF TRANSITIONAL PERIOD

Studies of democracies tend to evaluate national trajectories against an ideal of successful democracies and transitions. This usually results in distinctions being drawn between Europe and the USA on the one hand and politics in the global south on the other. This section is written with three propositions in mind. The first is the crisis of liberal democracy and the challenge of authoritarian populism in Europe, America, Africa, Turkey, and India in particular. The second is that nations in Africa and Asia decolonised in the shadow of the Cold War and with considerable political and economic intervention in their polities from Europe and the USA. The third proposition is that the emergence of a post-colonial elite, as much as democracy, was compromised by this historical fact.

This is a case study of India and its evolution from colony to an independent nation, and its attempts to make democracy over a period of 70 years. The Indian constitution adopted in 1950 sought to address the multiple fault-lines in Indian society of caste, religion and ethnicity, and the iniquities of a society characterised by hierarchy. Even then, Dr B.R. Ambedkar, untouchable leader and chairman of the constituent assembly, was moved to remark that democracy was merely a top dressing on a fundamentally undemocratic soil.

India has remained a democracy holding the world's largest elections every five years, with the dominance of the liberal-secular Indian National Congress (the leader of the liberation struggle) being replaced by an era of coalition governments and the emergence of a new formation of Hindu nationalism. The shift from an initial dirigisme and central organisation of the economy in the cause of industrialisation to economic liberalisation from the 1990s has put India among the top global economies in terms of its growth rate. Socially, there has been

the continuous low-grade fever of structural caste hierarchies and violence and discrimination against Muslims who constitute about 14 per cent of the population (Jaffrelot, Kohli and Murali, 2018; Chatterji, Hansen and Jaffrelot, 2019).

The question of whether the idea of democracy is of significance is raised both by those in the Global South critical of its functioning, and those who believe that democracy can only work in the West. Generally, as feminist publisher, Urvashi Butalia[14] puts it, '(t)he tradition of argument, of discussion, of different forms of putting in place egalitarian and humane governance structures…' has been an ongoing feature of human civilisation. Thinking historically however, historian and media personality Mahesh Rangarajan,[15] argues that universal franchise was taken up as a demand by the Congress as far back as 1929 and then enacted in the constitution in 1950. V. Geetha (historian and feminist scholar)[16] pushes the story further back to instances like those in 1779 when untouchable labourers in Madras City petitioned the East India Company on rights due to them. However, generally there is consensus on the role of the liberation movement in developing democracy, and as historian Gyan Prakash[17] asserts, democracy was 'a concept that evolved in India in the course of the struggle against colonial rule, which was based on the denial of democracy'. Democracy is now here to stay in India, and as anthropologist Thomas Blom Hansen[18] puts it, '(t)here is no doubt that the idea of electing one's representative and the right to vote now is about as Indian, and as old, as the Bollywood film industry.' So, one can say along with journalist Siddharth Varadarajan,[19] that after the adoption of the Constitution in 1950, 'there is no question of democracy being a "foreign concept"'.

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14 Urvashi Butalia, feminist and publisher, interviews conducted between 15–30 June 2019.
15 Mahesh Rangarajan, historian and media personality, interviews conducted from 15–30 June 2019.
16 V. Geetha, historian and feminist scholar, interviews conducted from 15–30 June 2019.
17 Gyan Prakash, Professor of History, interviews conducted from 15–30 June 2019.
18 Thomas Blom Hansen, anthropologist, interviews conducted from 15–30 June 2019.
19 Siddharth Varadarajan, journalist, interviews conducted from 15–30 June 2019.

Colonial experience and impact

The East India Company made a transition from mercantile trading to controlling territory when its mercenary troops won a battle at Plassey, Bengal, in 1757, helped by local mercantile groups, who believed the Company might provide a more secure environment for capital than the reigning nawabs. Between 1757 and 1830, the East India Company, through savage wars, came to dominate two-thirds of the subcontinent. Land settlements followed to secure revenue as much as to create a class of Indians who owed their status to the colonial power. The East India Company's control over the economy through monopolies on commodities and control over oceanic trade meant that the indigenous mercantile capital was diverted towards usury and financing land revenue payments. Attempts to exact revenue and to convert the agrarian economy to cultivation of cash crops were to lead to a series of famines with devastating consequences.

Though structures of law initially engaged with Hindu and Islamic forms of jurisprudence, over a period Anglo-Indian law emerged, which privileged texts over practices and upper caste understandings of Indian society. The Company's mercenary troops, numbering a quarter of a million, underwrote the laws. When the army and rural gentry in northern India rebelled in 1857, the British Crown saw a chance to take over the lucrative outpost. Between 1858 and 1947, India was formally a colony of the British Empire and the Queen's Proclamation of 1858 stated that customs and religions of the subject natives would not be interfered with. Three significant consequences of the century of British rule must be borne in mind. Politically, the British allied with the landlords, princes and 'leaders of the community' strengthening traditional and patriarchal authority. Socially, while lower castes and women gained access to education and employment, the Queen's Proclamation that protected the customs and traditions of the native population meant that male elites became the stakeholders in a conservatism that spoke in the name of protecting indigenous 'tradition'. Economically, apart from the exploitation of the agrarian economy, which led to what one historian has called the Victorian 'holocaust of famines', industry developed along lines favourable to

English interests, cotton and jute being the two major sectors (Bayly, 1990; Davis, 2002; Metcalf, 2007). Rooting out feudal authority, attacking social conservatism and arguing for industrialisation (alongside Gandhian insistence on indigenous village production) were to become the main themes of the liberation struggle.

Forms of liberation struggle and ideology

There were three phases of the liberation struggle in India beginning with a period of moderate politics between 1885 and 1920, the period of Gandhian mass struggle between 1920 and 1939, and a mixture of negotiation for independence with the colonial government and mass struggle between 1939 and 1947. The Indian National Congress was founded in 1885 and saw itself as a political association that tried to hold the colonial government to its professed liberal values and belief in the rule of law. The composition of the party was largely landed, business and professional elites who were the creations of the British presence in India. Any idea of social reform was either not considered or seen as an issue that needed to be deferred until a resolution of the political issue was reached. The late 19th century saw a slow and limited expansion of the involvement of Indian elites in local and municipal government, within the limits of a racist ideology that was averse to Indian people exercising political authority. The First World War and the return of Gandhi from South Africa saw increasing Congress involvement with issues concerning the exploitation of the Indian agrarian economy. From the 1920s, peasant agitation and principled, non-violent attempts to boycott British goods and support indigenous production or *swadeshi* became the trademark of Congress political activities. Mass demonstrations in the 1920s and 1930s drew in people of all social classes and both men and women.

However, Muslims and untouchables tended to see the Congress as a Hindu majoritarian and upper caste party. This led to political discord with M.A. Jinnah, the leader of the Muslim League, increasingly strong in the Muslim majority provinces, and Ambedkar, leader of the untouchables, who was bested by Gandhi in his attempt to make caste a political issue. From the 1930s, a disaffection with the Gandhian politics

of 'making haste slowly', led to socialist and communist organisation of workers, particularly in Bombay and Calcutta, and amongst peasants in the Gangetic valley, east and south India. While the Congress used the Second World War to intensify its nationalist politics, the Communist Party saw the war as an anti-fascist war and suspended political agitation. The end of the war, however, saw an attempt at a communist-led agrarian revolution, which the independent Indian state cracked down on in 1948, leading the communists to transition to engagement with parliamentary politics. The price of Congress negotiation with the British, which led to independence in 1947, was the granting of Pakistan as a Muslim nation; a negotiated settlement that put Indian conservatives in power under the leadership of Jawaharlal Nehru and no resolution of the fundamental inequality of caste that undergirded Indian society (Sarkar, 1983; Brown, 1991; Kumar, 2011; Bose and Jalal, 2017). The Congress at independence was committed to secularism (as a reaction to the religious violence of the Partition); to the amelioration of social inequality (short of a revolution); and to economic independence.

ANALYSIS OF TRANSITION

Was transition complete/successful?

The transition to a post-colonial society has largely been seen as a 'passive revolution' in Gramscian terms; a political compromise with the ruling classes – the landed, the bourgeoisie and the industrialists – which put a lid on large-scale social transformation. An indication of this is that while rights to life, belief and expression were enshrined as fundamental rights in the constitution, rights pertaining to social and economic equality were put under the non-justiciable category of directive principles. The most notable land reforms happened only in the states of West Bengal and Kerala, which had had a history of organised peasant struggle under the leadership of the Communist Party. The Bombay Plan of 1944 drafted by leading industrialists provided for government intervention in the economy and planned development through a public sector as the way forward. The

Tatas and the Birlas[20] were to be the government's favourite capitalists (Herring, 1983; Chibber, 2004; Menon and Nigam, 2007; Chatterjee, 2011; Kaviraj, 2012).

Nandini Sundar,[21] an anthropologist and civil rights activist, argues that elections with universal suffrage are the index of a successful transition. It is also of crucial significance, as Mahesh Rangarajan points out, that 'power was transferred; not acquired via a revolution or war as in China or Vietnam or Algeria'.[22] Given the shadow of Partition over independence,[23] the new polity stressed a multi-religious, secular democracy as opposed to Pakistan and a bureaucratic and legal framework over the army according to feminist and political scientist Nivedita Menon.[24] V. Geetha argues that one-party rule by the Congress, and the need to have a loyal opposition, meant that the moment of democracy was also the moment of repression and control: agrarian revolts were crushed in 1948, and in 1953 the demand for a plebiscite in Kashmir was buried in the interests of political 'stability'. That the Partition stood at the commencement of independence implied a permanently vulnerable, minority population of Muslims.

The state of the state

There is extensive literature on the nature of the state in India, characterising it as developmental or repressive, but overall, seeing it as the major player in Indian society as against the market, which continues to play a limited role. It is a democratic state with a separation of powers subject to the sovereignty of the people, exercised through regular and free elections. It is centralised in nature, bureaucratic in

20 Tata is an Indian company specialising in steel, mining, services and vehicle manufacturing. The Birla Group is one of the largest industrial houses in India, while the Aditya Birla Group is a multinational conglomerate, founded in 1857.
21 Nandini Sundar, anthropologist and civil rights activist, interviews conducted from 15–30 June 2019.
22 Mahesh Rangarajan, historian and media personality, interviews conducted from 15–30 June 2019.
23 In 1947, the Indian Independence Act provided for the division of British India into two dominions of India and Pakistan. This led to the birth of the two states.
24 Nivedita Menon, feminist and political scientist, interviews conducted from 15–30 June 2019.

form and increasingly capitalist in orientation, though for 50 years after independence it experimented with a mixed economy. Pranab Bardhan (1998) considers the industrial bourgeoisie as the dominant proprietary class and principal beneficiary of state policies in India.

While the liberalisation of the economy since the 1990s has meant that there are no longer elaborate protectionist schemes involving industrial and import licences, the co-dependence of the state and this group continues (Bardhan, 1998; Kaviraj, 2012). Nandini Sundar argues that one of the ironic features of the Indian state was the way that it reflected its colonial inheritance, and that colonial law survived in some aspects of administration, like the criminalisation of homosexuality. One of the legacies of the form that nationalist mobilisation took was that the nature of the democracy that emerged was elite, and managed under the Congress canopy, according to Thomas Blom Hansen.[25] Gyan Prakash[26] points to the incomplete hegemony of the nationalist movement, which meant that the state constantly had to contend with street protests in a constant dialectic. Given that the Indian nation-state was born in the crucible of the Second World War, when the state had to assume control over essential commodities and gather powers to itself for national defence, the remit of the state was large. V. Geetha argues that this may have been conducive to policies of post-war welfarism.

State institutions

The state institutions in India are comprised of the executive, the legislature and the judiciary with a separation of powers between these institutions and a system of checks and balances. The civil services, constituted through annual civil service examinations and selection through merit and affirmative action, undergird government institutions of administration, law and order and revenue. Elections are overseen by the Election Commission of India. India's monetary policy is formulated, implemented and monitored by the Reserve Bank

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25 Thomas Blom Hansen, anthropologist, interviews conducted from 15–30 June 2019.
26 Gyan Prakash, Professor of History, interviews conducted from 15–30 June 2019.

of India, which maintains price stability and ensures an adequate flow of credit to productive sectors. The major institutions of accountability are the Comptroller and Auditor General (CAG), Central Vigilance Commission (CVI) and Central Bureau of Investigation (CBI) (Mehta and Kapur, 2007). The rise in political corruption, and the national perception that politicians and political parties engage in private expropriation of public wealth, led to a massive popular protest in 2011. This resulted in an Act of Parliament in 2013, which led to the establishment of the office of the Lokpal or Ombudsman, to enquire into allegations of corruption against public functionaries.

Separation of powers

As in other parliamentary democracies, there is a separation of powers between the executive (the president and the prime minister in cabinet); the legislature (the fully elected Lok Sabha or lower house, and the indirectly elected and nominated Rajya Sabha or upper house); and the judiciary (with the Supreme Court at the apex of regional high courts). While there have been occasional calls for a presidential form of government and an impatience with the constitution, overall, the separation of powers is firmly established. There is provision in the constitution (drawing on colonial precedent) for the declaration of a national emergency in times of war and internal dissent, in which situation the prime minister rules by decree, elections are suspended and civil liberties are curtailed. The only instance of this in India's history was in June 1975, when the then prime minister, Indira Gandhi, declared a national emergency for 19 months. Given the tendency towards either executive overreach or inaction, the Supreme Court increasingly has resorted to what is called 'judicial activism' in order to get the government to act, or to criticise particular actions. While this is part of the conception of checks and balances, the introduction of public interest litigation has been seen by political parties as an encroachment on the powers of the executive (Kapur and Mehta, 2007).

Civil liberties

The fundamental rights, embodied in Part III of the constitution, enshrine liberties intended to allow all Indian citizens to lead their lives in peace. The civil liberties guaranteed include freedom of conscience; freedom of press; freedom of religion; freedom of expression; freedom of assembly; right to security and liberty; freedom of speech; the right to privacy; the right to equal treatment under the law and due process; the right to a fair trial; and the right to life. The right to be protected against exploitation (forms of forced labour); the right to freedom of religion (keeping in mind India's constitutional definition as a secular republic); and cultural and educational rights are further civil liberties guaranteed. Violations of any of these civil liberties are punished under the Indian Penal Code, though none of these rights are immune from constitutional amendments. While the fundamental rights are for the protection of individuals against arbitrary state actions, some rights are enforceable against private individuals too, such as the prohibitions against 'untouchability' and forced labour. Fundamental rights are not absolute and can be curtailed or redefined in scope in the national interest.

There are independent organisations like the People's Union for Civil Liberties formed in the wake of the 1975 emergency; Peoples Union for Democratic Rights; Human Rights Law Network as well as organisations that work to protect the liberties of marginal groups like 'tribals' and the former untouchables, who now call themselves dalits. While untouchability is abolished under the law, the Protection of Civil Rights Act of 1955/1976 and the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act of 1989 remain largely ineffective. The violence entailed in the maintenance of caste hierarchies, and the killing of dalits and their humiliation, remain the big unanswered question at the heart of Indian democracy.

The feminist movement has been active since the 1970s, dealing with issues relating to the economic and social empowerment of women. Feminists try to address patriarchal attitudes within the domestic and public sphere, manifesting in issues ranging from custodial rape to enforced dowry payments, and more general, environmental and

civil rights issues. The past few decades have seen the growth of LGBTQ movements, which led to a supreme court judgment in 2018 decriminalising homosexuality (Austin, 2000; Kannabiran and Menon, 2007; Jayal, 2013; Geetha, 2016; Roy, 2017). One of the ironies of civil rights in India, according to Gyan Prakash, is that civil liberties granted by the constitution are not the result of a struggle for civil rights, as was the case in the African American struggle in the USA. This makes civil rights discourse too dependent on the state and the constitution. While the state, according to Thomas Blom Hansen, maintains an '… even-handed equidistance between groups', this exists alongside the marginalisation of Muslims. Siddharth Varadarajan says that there is inadequate provision made for representation of Muslims; V. Geetha points out that this issue has always been a question of rights vs developmental needs. The emphasis on the latter has resulted in a politics of condescension and accommodation.

LIBERATION PARTY IN POWER

The Congress came to power in 1947, basking in the glory of having led a victorious liberation movement. A constituent assembly had been set up in 1946 to draft a constitution, and in 1950 India was declared a republic and the constitution was formally promulgated. The national liberation movement had been premised on the authority of the Congress; the charisma of its leaders, Nehru and Gandhi; and the effective side-lining of contenders to authority within the party. Given Nehru's commitment to non-alignment and his leadership of the decolonised world expressed in the Bandung Conference in 1955, he strode the post-colonial world like a colossus. Nationally, he had few rivals and his style of authoritarian populism was accepted. A commitment to national development, science, arts and culture was expressed in five-year plans; the building of a peaceful nuclear programme; big dams ('the temples of modern India'); cultivation of a 'scientific temper'; and the setting up of national academies for arts, literature, theatre and film.

One of the features of Nehru's leadership of modern India was his voluminous correspondence with the chief ministers of the provinces

instructing, educating and cajoling them in the vision of a modern India. The party did not brook contenders, nor did it look kindly on alternative modes of governance. In 1957, the southern state of Kerala became the first state in the world, under conditions of liberal democracy, to elect a communist government to power. It then proceeded to institute far-reaching changes in land relations and education, threatening the status quo. In 1959, acting on the pretext of declining 'law and order', the Nehru government declared an emergency in the state and removed the government. In Kashmir and the north-eastern regions, movements for regional autonomy were dealt with equally firmly, with the army deployed and the enactment of special laws to curtail political activity and civil liberties (Frankel, 2005). Siddharth Varadarajan argues that there is a fundamental ambivalence about democracy in India, as perceptions about a lack of development and availability of basic amenities have led to a persistent longing for a strong government, capable of pushing through an agenda. V. Geetha states that top-down planning and ideas of developmentalism stressed the strong state over the rights of the people and this, Urvashi Butalia says, may have begun the slow slide towards a more authoritarian form of government. The State of Emergency between 1975–77 was an expression of this belief in a strong state, constituting a watershed in the crystallisation of such ideas, according to historian Mahesh Rangarajan.

Presence of democratic forces

Until his death in 1964, Nehru and the Congress won all the elections and the party was well entrenched. As discussed above, already the imperatives of state control meant that the Congress consolidated its power through provisions in the constitution, but arguably not in the spirit of democracy. Inner-party democracy was again not a pressing issue since there was consensus about who should lead. After Nehru's death, matters were to come to a head; but it was not until 1966 that Indira Gandhi became party president and then prime minister. Arguably, with Gandhi coming to power there was a slow erosion of the authority of regional satrapies and the Central Congress Command exercised great power; a process that was to reach its culmination with

the declaration of Emergency in 1975 (Frankel, 2005; Kothari, 2012). However, Mahesh Rangarajan points out that inner-party democracy in the Congress had been compromised in 1938 when Mahatma Gandhi intervened in the party presidential elections to prefer Nehru over Subhas Bose and again, when Rajiv Gandhi and Sonia Gandhi respectively assumed power over the Congress party as heirs to the Nehru name. This points to the problem of an incomplete hegemony, which Gyan Prakash has asserted meant that the state and party had to temper democracy with populism. V. Geetha argues that given that civil society was limited, 'populism was the face of the democratic contract'.

CONSOLIDATION OF DEMOCRACY: WAS IT SUCCESSFUL?

If we look at the period from Nehru's death in 1964 to the present, arguably the formal institutions of democracy have functioned well except for the brief period of the Emergency from 1975–77, when parliament and the judiciary succumbed to the authority of the prime minister. The media, with a few honourable exceptions, succumbed to the executive onslaught and, in the memorable words of an opposition leader, crawled when asked to kneel. Indira Gandhi was voted out of power in 1977 and a coalition government was formed, showing that the institutions and procedures undergirding democracy were robust. However, when Indira Gandhi came back to power, it was with a mandate that further consolidated her power.

The handling of secession in the Punjab in the 1980s – the Khalistan movement – and the Congress shenanigans of supporting a militant Bhindranwale, backfired and resulted in the infamous army attack on Sikhism's foremost shrine, the Golden Temple at Amritsar. Indira Gandhi was assassinated in 1984 for this act of perceived blasphemy, and for a few days the streets of Delhi saw the butchering and burning of Sikhs by local hoodlums led by Congress functionaries. Many of the politicians involved in violence against Sikhs remain unpunished even today. This Sikh genocide was the first rupture in India's social fabric and a rent in its democracy. Acts of violence by political parties have

largely gone unpunished; and if we look at a litany of incidents, we see that the perpetrators have received political protection: 1992 – the destruction of the Babri Masjid in north India by Hindu fundamentalist followed by large-scale riots; 2002 – the killing of Muslims in the state of Gujarat under the chief ministership of Narendra Modi. There is also an increasing disregard for civil liberties when it comes to the arrest of those perceived to be on the extreme left and of supporters of the cause of tribal rights and environmental norms.

Finally, since the massacre of dalits at Kilvenmani in 1968, there has been an unremitting series of incidents of collective violence and everyday humiliation of lower castes, which raises the question: For whom does democracy work in India? Perhaps, the form of democracy has been successful but in substance it is not the rule of law but impunity – for either state or social violence – that characterises the polity (Guha, 2017; Devadas, 2018; Shani, 2018).

The general elections, largely free and fair, can be seen as a consolidation of democracy in India and have come to be seen as a rite of passage. Historian and feminist scholar V. Geetha points to the carnivalesque nature of the elections in which people participate with the same enthusiasm as for Bollywood or cricket – other Indian passions. Gyan Prakash, however, asks whether the whole idea of democracy in India has not been 'reduced to elections'. Despite the presence of the Election Commission that oversees voting procedures, the introduction of electronic voting machines (EVMs) has caused concern about vote fixing and rigging of elections, according to political scientist Nivedita Menon. Analysts like Siddharth Varadarajan feel that elections have been instrumental in 'voting out unpopular governments' and as Mahesh Rangarajan points out, 'eight of the 17 general elections have … seen a ruling party or coalitions step down due to a loss in the polls'. Thomas Blom Hansen cautions us that since the time of Indira Gandhi elections have been transformed into a 'plebiscitary machine' characterised by populism, the cynical manipulation of constituencies along lines of religion, caste and ethnicity, and lavish spending.

The state of the state

The immediate post-independence state was characterised by its developmental agenda and its close connections with an industrial bourgeoisie helped along by import substitution and a protective licence regime. Planning and a state-led economy also resulted in a bloated public sector which was never productive or profit-making but served rather as a system of patronage and political support. Liberalisation and public engagement with the stock exchange have resulted in a new paradigm in which the market is seen as king. However, given strict rules regarding direct foreign investment and other restrictions, the state is in a symbiotic relationship with crony capitalism. If it was the Tatas and Birlas in an earlier age, it is the Ambanis and Adanis who are the primary beneficiaries now.[27]

Since disinvestment and the slow death of public sector enterprises, the two spheres still under government control are the nationalised banks and land, often mineral-rich, and occupied by tribal groups. In recent years there has been an alarming increase in banks' bad debts as public money is diverted to favoured industrialists and the large-scale leasing and dispossession of mineral-rich land without compensation for tribal groups. The state has needed to become more interventionist – as in Prime Minister Modi's recent demonetisation move in 2016, aimed at bringing 'black' money into banks. Ironically, the state has also become more *laissez faire* politically with the rise of a new paradigm of Hindu fundamentalism: Hindu violence against Dalits and Muslims has gone uncensured. The state has been redefined as one committed to economic development, but lacks a sense of the need to create and sustain a democratic and secular culture. The weak strain of authoritarian populism that Nehru displayed has reached its apogee in the present Prime Minister (Jaffrelot, Kohli and Murali, 2018; Padel and Das, 2010; Kumar, 2017).

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27 The Ambani family are business magnates in India who control industries such as petrochemicals, textiles and communications. The Adani Group is a large Indian conglomerate founded by Gautam Adani in 1988, and is involved in energy, logistics, agribusiness, real estate and mining.

State institutions

Politicians and parties have been impatient with democratic norms arising from the fact that electoral nominations by parties have drawn upon local fault-lines of money, social power and influence. For every election, the media report an increase in the number of legislators and parliamentarians with a criminal record. This has meant that civil services – police, revenue and the broader administration – have been under considerable pressure to conform to the dictates and whims of politicians. However, the existence of a nationally recruited civil service with fixed tenure and recourse to the courts has meant that politics has not managed to entirely suborn state institutions. The increasing use of the army for civil control in Kashmir and the northeast, as also the penchant for creating war scenarios as elections near, has meant that the perceptions of the army have become hugely politicised. Unlike Pakistan though, it is highly unlikely that the army can or will play a political role in India's democracy.

The Reserve Bank has managed to maintain its integrity and independence in charting India's financial stability, though, given bad debts in nationalised banks and budgetary constraints, of late the government has tried to influence the Bank considerably. The legislature has over the years protected the interests of political parties particularly regarding fund-raising and corporate investment in parties. Since India has a federal structure, the emergence of powerful regional parties has meant that there is sufficient contention within the system to guarantee that state institutions cannot be hijacked by a party in power at the centre.

Civil Liberties

While it can be argued that tendencies towards authoritarianism and the arbitrary exercise of power by the state has largely been contained by the presence of checks and balances, state institutions and civil liberties organisations, levels of violence and impunity in India are still high. Kashmir is the world's largest militarised zone, as India attempts to prevent secession in the region and the enforcement of the Armed Forces Special Powers Act has meant that the army can act

with a relative degree of impunity (Devadas, 2018). When it comes to issues of 'development' – the building of dams, nuclear reactors or the appropriation of land from tribal groups for mining – the state pays little regard to the civil rights of affected groups and resorting to police violence is the norm (Roy, 2009; 2013). Apart from the impunity of the state, levels of violence against untouchables – ranging from everyday humiliations to killings – are high and go unpunished in the main (Teltumbde, 2010).

STATE AND DEVELOPMENT

Socio-economic indicators

With the emergence of India as an economic power and its inclusion within alphabet soup nomenclatures like BRICS, there has been an increasing emphasis on rates of growth and GDP over inclusive development. Amartya Sen has emphasised the importance of real freedoms in the assessment of a person's advantage; individual differences in the ability to transform resources into valuable activities; and a concern for the distribution of opportunities within society as indicative of social happiness (Dreze and Sen, 2014). India still has far to go on the evidence from a range of indices, such as having one of the highest rates of child malnutrition in the world; differential access to education; pre-modern, hierarchical relations based on caste and religion; and the as yet unmet goals on nationwide availability of water and electricity. There is a direct correlation between levels of social and political mobilisation, as well as levels of literacy, to indices of human and economic development. States like Kerala and Tamil Nadu, which have seen political mobilisation of the poor and a commitment to achieving social equality, are far ahead regarding progressive politics and social equality. On the other hand, in states like the populous Bihar, Madhya Pradesh, Uttar Pradesh and Rajasthan, where the politics of vote-banks have worked along the fault-lines of caste and power, social development has been poor, and politics have tended towards populism rather than social mobilisation for development. The federal structure of India's polity also means that regional development has its

own histories. A concentration on national averages can blind us to the reality of regional backwardness and poverty.

Civil society

If at all there is a narrative of hope it comes from a robust civil society that resists the encroachments of the state and the drag of custom and community. A strong regional language media has circulation figures that the English media cannot match. For example, between January and June 2018 the Hindi-language *Dainik Bhaskar* had a circulation of 4.3 million, against English-language *Times of India*'s 2.8 million. This has meant a vibrant resistance to any emergent national politics. Civil liberties bodies, specifically feminist, dalit and LGBTQ organisations, and environmental activists have managed to keep Indian democracy vibrant. The roles of independent secular public intellectuals in asserting diversity at the heart of democracy have become crucial in a time of a majoritarian politics. However, the recent murders of rationalists like Narendra Dabholkar and journalists like Gauri Lankesh show that India's democracy walks on a razor's edge.

Summary

Historian and feminist scholar V. Geetha argues that 'we have not really spent time investigating what democracy means in our [India's] context, with Dr Ambedkar being the one notable exception'. A more acute understanding is required of the role that anti-caste movements have played in the progress of democratic life in India. The same applies to feminist movements, which have addressed the problematic relationship between home and the world, as far as rights and freedoms are concerned. The public sphere, according to Mahesh Rangarajan, has been riven by 'many contests … on the concept of secularism or the extent or manner of positive discrimination'. Journalist Siddharth Varadarajan argues that a concentration on the 'formal aspects of democracy – periodic and free elections' is not enough. Nivedita Menon points to how easily Hindutva has eroded a secular understanding of who constitutes the nation since the Muslim and dalit have been easily marginalised. The issue of how to forge a plural

or secular state in a religious society, or rather one in which currently the politics of faith have become prominent, is a complex one. This is a problem that Indian democracy has wrestled with constantly, says Mahesh Rangarajan. Thomas Blom Hansen points to a Pew Research poll in 2017 that showed that among countries in Asia, and compared with other established democracies, India exhibits one of the lowest rates of popular support for democracy as a form of government and one of the highest rates of support for authoritarianism and/or military rule. He says: 'It seems almost unimaginable that this "genie" of competitive populist politics and political freedom can be put back in the bottle, so to speak.' India has a minimal democracy with elections, separation of powers, the rule of law and fundamental rights of liberty and expression. V. Geetha argues that the conjoint fraternal existence that Ambedkar dreamt of is yet to be realised. The dream of democracy, the substantive ideal that it is, ought not to be assimilated into a mere evaluation of governance and rule. The dissenting and utopian imagination must be nurtured and lived as well.

Section Three

South Africa's Democratic Transition and Consolidation

THE ANC AND THE ORIGINS OF SOUTH AFRICA'S DEMOCRACY

The African National Congress (ANC) was formed in 1912, in large part to oppose the pending Native Land Act 27 of 1913 and assert the principle of equal rights among South Africa's racial groups. After decades of multifaceted resistance, which included a global anti-apartheid movement, it became South Africa's ruling party in 1994 with the attainment of non-racial democracy. Despite some setbacks – notably the 2016 local government elections in which the ANC lost control of a number of metropolitan areas – its overall dominance of the political landscape of the country has been virtually unassailable. The ANC has never described itself as a political party, choosing instead the moniker, explicitly, of South Africa's national liberation movement. This provides an important insight into its political approach and psychology. With broad appeal, but with an ideological makeup that could appear inchoate to outsiders (its 'broad church' of members have been drawn from traditions as diverse as African hereditary leadership to Christianity and Marxism), the ANC presents itself as something beyond a typical political party and rather as the embodiment of the aspirations of 'the people'.

As a party, its sense of identity remains deeply invested in having been the leading organisation resisting apartheid and antecedent colonial systems of governance. This was an historical experience in which black people (and particularly 'indigenous' Africans) lacked virtually all political rights, were without civil liberties, and were excluded from economic opportunities – relegated instead to a

subject population and a reservoir of cheap labour. The condition was powerfully summed up by one of the ANC's founders, journalist and intellectual Sol Plaatje, commenting on the Native Land Act of 1913 which severely curtailed African landholding: 'Awakening on Friday morning, June 20, 1913, the South African native found himself, not actually, a slave, but a pariah in the land of his birth' (Plaatje, 1916: 21).

This historical resistance to oppression is frequently and repeatedly invoked both as an appeal to ANC supporters (a mobilisation technique), and as an assertion of the unique legitimacy that the party believes itself to hold. Its ambition is to exercise not just state power, critical though that is, but leadership across all spheres of society. Thus, for example, in the ANC's 2010 January 8th Statement, it located ongoing efforts at organisational 'renewal' in this context: 'The renewal of the ANC refers to a process of building and sustaining the ANC to provide leadership to the state and society in general. It seeks to ensure that the ANC remains a mass-based, multi-class and disciplined force of the left. We are unashamedly biased towards the working class and the poor' (SAHO, 2010).

Historically, the ANC's agenda was focused on winning political and civil rights, and improving the economic lot of black people. Its Freedom Charter, drawn up in 1955, established a set of ten broad demands for transforming society, proposing a non-racial democracy, opportunities for all in social development, and extensive economic restructuring. It remains a document of major historical and emotive importance. This was followed in the 1960s by the development of the notion of the National Democratic Revolution (NDR).

The NDR is defined in ANC literature as 'a process of struggle that seeks to transfer power to the people and transform society into a non-racial, non-sexist, united, democratic one, and changes the manner in which wealth is shared, in order to benefit all the people' (ANC, 2007). To achieve this, the ANC, which views its interest as converging with those of the masses, would need to control the state and exercise hegemony over other strategic centres of power in society. This found expression in its policy of cadre deployment, in terms of which the party would decide on appropriate appointments to key positions. Meanwhile, for the ANC's leftist allies – the South African Communist Party (SACP)

and the Congress of South African Trade Unions (COSATU) – the NDR provides a stage from which a socialist (or in the case of the SACP, ultimately a communist) society can be built.

Central to the ANC's politics is South Africa's racialised history and the confluence of this with socio-economic deprivation. Race and class, in other words, have always overlapped. A document prepared for its 2007 national conference states that: 'The main content of the NDR, [the ANC's overall conceptual strategy] is the liberation of Africans in particular and Blacks in general from political and socio-economic bondage. It means uplifting the quality of life of all South Africans, especially the poor, the majority of whom are African and female. At the same time it has the effect of liberating the white community from the false ideology of racial superiority and the insecurity attached to oppressing others. The hierarchy of disadvantage suffered under apartheid will naturally inform the magnitude of impact of the programmes of change and the attention paid particularly to those who occupied the lowest rungs on the apartheid social ladder' (ANC, 2007).

The nature of the ANC and its programmes must therefore be understood in the context of South Africa's past, and the salience of race to it.

The first ever non-racial, democratic elections in South Africa in 1994 were conducted against the background of a bleak socio-economic landscape. Dealing with this was a substantial – indeed the central – challenge confronting the ANC. Terreblanche (2002: 25) explains it in these terms:

> When, in 1994, the democratically elected government came to power, it inherited a contradictory legacy: the most developed economy in Africa on the one hand, and the major socio-economic problems on the other. The most serious of these are high rates of unemployment; abject poverty among more than 50 per cent of the population; sharp inequalities in the distribution of income, property and opportunities; and high levels of crime and violence. What makes these problems so pressing is the fact that it is mostly blacks – and especially Africans – who are at the receiving end.

This historical reality of racialised inequality and poverty confronted the ANC government. Joel Netshitenzhe, former head of the policy and coordination advisory unit in the presidency and now an ANC National Executive Council (NEC) member and executive director of MISTRA, outlined the strategic thrusts of governance thus: 'The starting point in the ANC's approach to social change is that liberation should serve as a basis for resolving three basic antagonisms that characterised apartheid colonialism: national oppression, class super-exploitation and gender oppression. All these antagonisms revolve around race; and the phrase super-exploitation is used deliberately because the ultimate outcome is not a classless society' (Netshitenzhe, 2018b).

The particular history of the country has engendered a strong sense of exceptionalism, both on the part of the country and on the part of the ANC: this history includes becoming a virtual synonym for racism after the Second World War, avoiding a full-scale conflagration and then making a transition to constitutional democracy, and the role of the ANC in this. South Africa was unique, a sort of moral and historical beacon. The ANC, in its own worldview, was equally so. But the uneven nature of the country's democratic and economic trajectory over the past 25 years has cast doubt on this – which raises the question of whether South Africa and the ANC are in fact exceptional, or merely drifting towards the distressing post-colonial mediocrity that has characterised many other societies. This debate will be picked up later after a discussion of South Africa's transitional process.

APARTHEID'S IMPLOSION AND THE CONTEXT OF SOUTH AFRICA'S TRANSITION

Understanding the context and drivers of South Africa's transition offers a useful starting point to understanding what has transpired since the democratic transition and indeed to addressing the question of whether South Africa can claim to be exceptional in terms of that transition and subsequent developments.

Magubane (2010) says '(a)fter the Rubicon speech[28] the question

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28 This was an address by former President P.W. Botha in 1985. It had been

for most informed observers was no longer "if" but when the proverbial judgment day would come for the demise of white minority rule'. Bearing the brunt of the economic crisis that was increasingly indistinguishable from the country's political crisis, the business community was one of the constituencies that saw the impending demise of apartheid and sought what Joel Netshitenzhe[29] terms 'accommodation' in the post-apartheid dispensation. The supposed demise of apartheid rule can be attributed to both internal implosion of the system and external developments in the geopolitics of the 1980s. An economy in crisis, coupled with uprisings in black communities, are two of the major internal dynamics. Referring to a briefing to cabinet at the time by the then chief of the South African Defence Force, General Constand Viljoen, Magubane lists the following as some of the external factors that led to the demise of apartheid: 'the fall of the white power base in Rhodesia'; 'Russian willingness, particularly after successes in Angola, to take greater risks in direct violent actions'; and 'the turnabout in the attitude of the USA government towards us' (Magubane, 2010).

Not to be underestimated, too, was the formidable mass resistance that developed during the 1970s and 1980s, particularly under the United Democratic Front (UDF), an ANC-aligned coalition of civic, religious, labour and other organisations. The UDF promoted strikes, protests and boycotts – a strong message of non-collaboration with the apartheid state – which made administration and social control increasingly difficult. The UDF forged links not only between different organisations, but between diverse communities. The ability to exploit both legal and illegal opportunities to raise the costs of maintaining the existing system was as important a tool of rebellion as ANC-led guerrilla activity or violent confrontations with the security forces. In addition, the ANC led a massive global campaign for international pressure against the apartheid state. All these efforts played a crucial role and ultimately forced the apartheid government to accept the need for change.

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widely anticipated as a statement on reform but failed to make any such announcements. The effect on South Africa's reputation was highly damaging.
29 Joel Netshitenzhe, intellectual and ANC NEC member, interviewed on 19 September 2019.

There was no sudden revolutionary seizure of power, nor any real prospect of one. This fact is best characterised by Ayanda Ntsaluba,[30] reflecting on whether South Africa's transition to democracy was a success:

> I am unapologetic about the transition; it was very successful. There is a lot of criticism of the transition on an ahistorical basis. One has to understand that we were at a point where neither the liberation movement was strong enough to defeat the apartheid state and equally the apartheid state had lost significant legitimacy and its capacity to govern was therefore eroded. There was a stalemate in a sense. I think that people look at the trade-offs made and forget and pretend that we had completely defeated the apartheid state; we had not.

For a complete picture of how South Africa's negotiated settlement came to be, Ntsaluba's views need to be juxtaposed with what the SACP's 'Path to Power' document describes as 'the enemy's military strength' (SACP, 1989). According to the SACP's analysis, this strength meant that there were no 'immediate prospects of inflicting an all-round military defeat on the enemy' (SACP, 1989). This is what necessitated the series of talks held by some senior ANC leaders with, amongst others, some sections of the colonial-apartheid power elite in the lead-up to negotiations through the Convention for a Democratic South Africa (CODESA).

However, CODESA negotiations were equally a difficult process. The fragility of the CODESA moment was exacerbated by the fact that there were some anti-apartheid political parties, such as the Pan-Africanist Congress (PAC) and the Azanian People's Organisation (AZAPO), that refused to participate in the negotiations or withdrew, as did Mangosuthu Buthelezi of the Inkatha Freedom Party (SAHO, 2017). Even though many political organisations (around 16) participated in these negotiations, the political unrest and extreme

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30 Ayanda Ntsaluba, former Director General of DIRCO, and anti-apartheid activist, interviewed on 4 June 2019.

violence prevailing at the time,[31] and the risks to settlement posed by extremist white Afrikaner resistance groups rendered the process precarious. Overall, the balance of forces led to a settlement that did not entirely match the sacrifices of a struggle that had taken over a century to achieve.

The ANC had envisaged a new dispensation in which political rights are accompanied by second and third generations rights. These also found expression in the ANC's discussion document titled 'Constitutional Principles and Structures for a Democratic South Africa'. The aim, Netshitenzhe (2018b) says, was to create a national democratic society characterised by:

- Liberal democratic rights represented by the right to vote and a variety of political freedoms, including matters of gender and sexuality and access to information.
- Socio-economic rights that also encompass environmental rights, which should be progressively attained.

Compromise and change

After a turbulent negotiation period between 1990 and 1994, a deal was reached for the country's first non-racial elections. Since the ANC had an interest in as smooth a transition as possible, it needed to offer incentives to those associated with the previous dispensation – in politics, administration and the economy – in exchange for their cooperation. This was done, proceeding from the understanding that, unlike in most other colonies, the white settler community saw the country as their permanent home.

Job security, pensions and the possibility of avoiding prosecution for human rights abuses were significant incentives for functionaries of the apartheid state, and the constituencies they represented. Not only did the institutions of the former regime generally survive (the intention was to repurpose them) but so did many of the institutional and even individual interests. To some extent, these interests were legitimised by the political transition. On economic matters, literature

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31 For more on this, see Simpson, Mokwena and Segal (1992).

concerning the nature of the South African democratic order converges on the compromises that the ANC as a government-in-waiting had to make to private capital (Terreblanche, 2002; MacDonald, 2006; Mbeki 2009; Gumede, 2012; Habib, 2013).

Of importance to understanding the nature of South Africa's transition is the prevailing international context. The democratic state came into existence at a time when the global political environment was changing, with serious implications for the country. Perhaps most notable was that socialism as a viable socio-economic alternative had been largely discredited by the economic and political crises in the Soviet Union and Eastern Europe. On a more profound level, liberal democracy and capitalism were, in the early 1990s, widely seen as the only viable future, along the lines of Francis Fukuyama's 'End of History' argument (Fukuyama, 1992). At its unbanning, the ANC had expressed itself in favour of nationalising parts of the economy, but by the time it assumed office it had effectively eliminated this from its programme, arguing instead for an approach informed by 'the balance of evidence'. In its 1992 policy document, 'Ready to Govern' (ANC, 1992: 19), the ANC argued that:

> … the balance of the evidence will guide the decision for or against various economic-policy measures. Such flexibility means assessing the balance of the evidence in restructuring the public sector to carry out national goals. The democratic state will therefore consider:
> - Increasing the public sector in strategic areas through, for example, nationalisation, purchasing a shareholding in companies, establishing new public corporations or joint ventures with the private sector;
> - Reducing the public sector in certain areas in ways that will enhance efficiency, advance affirmative action and empower the historically disadvantaged, while ensuring the protection of both consumers and the rights and employment of workers.
>
> Such a mixed economy will foster a new and constructive relationship between the people, the state, the trade union movement, the private sector and the market.

ANC President Nelson Mandela would later tell an interviewer: 'As I moved around the world and heard the opinions of leading businesspeople and economists about how to grow an economy, I was persuaded and convinced about the free market. The question is how we match those demands of the free market with the burning social issues of the world' (Bright, 2013).

SOCIO-ECONOMIC CRISES, POLICY COMPROMISES AND ECONOMIC OPTIONS

Perhaps no issue has such implications for the future of South Africa as dealing with its socio-economic challenges. The origins and overall nature of these has been outlined above. Most critically, these challenges may be described as the persistence of the 'triple challenge' of poverty, unemployment and inequality, along with the racial patterns they follow. To be more specific, wealth distribution, economic status and asset ownership continue to follow similar racial patterns: large parts of the population are unemployed and without the means to enter the workforce, and millions remain in poverty with little prospect of escaping it.

From government's perspective, dealing with this must be understood not just as a matter of meeting citizen demands for rising standards of living, but as part of its 'historical' and ideological mandate to transform the country. Former President Thabo Mbeki explicitly incorporated these interrelated racial and class cleavages into his analysis of South African society. In May 1998, then still the country's deputy president, he set this out in an address to the National Assembly. It is worth quoting this in some detail (Mbeki, 1998):

> A major component part of the issue of reconciliation and nation building is defined by and derives from the material conditions in our society which have divided our country into two nations, the one black and the other white. We therefore make bold to say that South Africa is a country of two nations.
>
> One of these nations is white, relatively prosperous, regardless of gender or geographic dispersal. It has ready access to a developed

economic, physical, educational, communication and other infrastructure. This enables it to argue that, except for the persistence of gender discrimination against women, all members of this nation have the possibility to exercise their right to equal opportunity, the development opportunities to which the Constitution of '93 committed our country.

The second and larger nation of South Africa is black and poor, with the worst affected being women in the rural areas, the black rural population in general and the disabled. This nation lives under conditions of a grossly underdeveloped economic, physical, educational, communication and other infrastructure. It has virtually no possibility to exercise what in reality amounts to a theoretical right to equal opportunity, with that right being equal within this black nation only to the extent that it is equally incapable of realisation.

This reality of two nations, underwritten by the perpetuation of the racial, gender and spatial disparities born of a very long period of colonial and apartheid white minority domination, constitutes the material base which reinforces the notion that, indeed, we are not one nation, but two nations. And neither are we becoming one nation. Consequently, also, the objective of national reconciliation is not being realised.

Mbeki's remarks on this occasion were arguably less important as a description of South Africa (they were much discussed and, in some quarters, criticised) than what they indicated about the orientation in government that race and class could not be divorced, and particular choices, such as affirmative action, were effectively non-negotiable.

Yet, writing in 2002, Terreblanche maintained that there had been no meaningful structural change in South Africa since 1994, meaning the status quo had largely remained intact. Referring to the post-apartheid social landscape, he says (Terreblanche, 2002: 27):

All South Africans can be proud of the political and human rights transformations that have taken place over the past eight years. Unfortunately, a corresponding socio-economic transformation

has not yet taken place. Ugly remnants of systematic exploitation and discrimination from the extended period of colonialism remain. What is really disturbing is that the precarious socio-economic situation in which large numbers of Africans and coloureds find themselves has not improved during the post-apartheid period, but has in fact become burdensome.

One expression of this is the proportion of the country living at or below the Upper Bound Poverty Line (this is effectively the amount needed in a given year to afford a minimum of food and non-food items). In 2006, some 66.6 per cent of the country was under this level. This had dropped to 55.5 per cent by 2015. Among black Africans, it had fallen from 76.8 per cent to 64.2 per cent. Among coloured people, it fell from 56.1 per cent to 41.3 per cent. Among Indians, it went from 20.9 per cent to 5.9 per cent, and among whites from 1.4 per cent to 1.0 per cent (CRA, 2019: 456–57).

Another is the unemployment rate, which at present hovers at 29.1 per cent according to the official definition, in terms of which being unemployed demands that one be actively searching for work. The so-called expanded definition – including those not working, available for work, but not actively searching – was at 38.5 per cent. The imprint of race and history is strongly evident in these figures. Among black Africans the official unemployment rate was some 32.8 per cent, among coloured people 23.5 per cent, among Indians 13.3 per cent and among whites 7.4 per cent. On the expanded definition, it was considerably worse: 43.1 per cent among black Africans, 28.6 per cent among coloured people, 17.6 per cent among Indians and 9.3 per cent among whites.

Seen from a regional perspective, labour market retardation – labour inactivity and unemployment – was most heavily evident in those parts of the country in which apartheid had sought to confine black people. It also showed a relationship between education and unemployment – over 90 per cent of the unemployed have only a secondary school qualification or less (Stats SA, 2019b).

When considering income and asset inequality, South African rates of inequality are among the worst in the world – even during the period of high growth from 2004 to 2007, when GDP growth reached around 5 per cent annually. As a World Bank report (Word Bank, 2018: 23) notes:

> There was a small dip in inequality in the early 2000s due to the expansion of the social protection system and a growing middle class. However, inequality has not improved since 2008. In fact, inequality today is higher than it was in 1995, with a consumption Gini coefficient of 0.63.

Stats SA's recent study of inequality puts this into perspective. The data maps the development of inequality between 2006 and 2015. It shows that overall, in terms of the Gini coefficient, inequality came down very slightly – from 0.67 to 0.65. Over this period, inequality among black Africans rose – from 0.54 to 0.57 – remained constant for coloured people (at 0.56), and decreased among Indians and whites (from 0.52 to 0.45 and from 0.43 to 0.41 respectively) (Stats SA, 2019a: 34). The report ascribes income inequality to the impact of widespread unemployment and 'the fact that a small number of people make very large incomes' (Stats SA, 2019a: 6, 64).

Research elsewhere has argued that young black South Africans were often entering the labour market without the requisite skills to meet the demands of the economy, thus with their prospects undermined both in absolute terms, and relative to their white peers (Burger and Von Fintel, 2009). Herein lies the 'youth unemployment' crisis, a matter of acute frustration to millions of young people.

The changing skills demands of the economy have meant that opportunities once available for unskilled (predominantly African black) workers in sectors such as mining and manufacturing have been in decline. In contrast, the opening of South Africa's economy to the world and the new opportunities created in the information and service sectors provided great returns to those able to exploit them. These included some of the country's largest firms – some of which opted to list abroad – and its citizens who had the skills or entrepreneurial aptitude to benefit. For historical reasons, the white population was

best poised to do so. As the so-called Fourth Industrial Revolution gathers momentum, these trends are likely to accelerate.

This picture is not static, and some very important changes have occurred. A substantial 'black (African) middle class' has emerged. While the exact definition of this group is contested, numbers in the order of 6 million people have been put forward as a signifier of its size (ANC, 2018). Yet, even behind such developments is an undercurrent of instability and insecurity. Rocco Zizzamia, Simone Schotte and Murray Leibbrandt (2019) have made the case that only some 24.4 per cent of South Africans may be considered 'stably middle class or elite' – a smaller proportion than other studies suggest. Around the same proportion may be considered 'transient poor' or 'vulnerable' – below sit those in 'chronic poverty' (Zizzamia, Schotte and Leibbrandt, 2019). In other words, millions who are not always in poverty are constantly threatened by it. The familiar racial patterns are evident in these numbers too.

The point that many analysts have made is that the true trans-formation of society has not yet taken place. In responding to a question about variables that have negatively impacted on the building of a democratic South Africa, intellectual and political activist Mamphela Ramphele sees them as a failure to understand 'that the struggle was not about just overthrowing the apartheid system, but it was about how to work together as South Africans to build the country that so many people had sacrificed for'.[32]

Netshitenzhe points to three trends over recent years that are cause for concern, and which illustrate the scale of the challenges faced (Netshitenzhe, 2018b):

> Firstly, the fact that, in a period that requires a more skilled population, the number of African students acquiring tertiary qualifications as a proportion of the African population is declining; secondly, that with current levels of youth unemployment and marginalisation, South Africa may miss the demographic dividend; and, thirdly, the reversal of the positive trend on income poverty since 2011, with more people now living below the poverty line.

32 Mamphela Ramphele, activist, intellectual and politician, interviewed on 11 June 2019.

The question is how to explain this, especially given the ideological commitment of the democratic government to addressing these issues and explicit demands of its constitution to do so.

Much of the debate turns on the economic direction that the country took after 1994. The newly democratic state had agreed to follow a market-oriented course, and had eschewed comprehensive redistribution policies in terms of income and assets.

Some critics have asserted that the economic policies the post-colonial government adopted differed little from late-apartheid economic policies, hence the failure to undo the structural inequalities of the past (Habib, 2013). These criticisms are usually made with reference to the adoption of the Growth, Employment and Redistribution (GEAR) strategy in 1996, which has been widely interpreted as having displaced the redistribution and welfare-focused Reconstruction and Development Programme (RDP).

Netshitenzhe argues (implicitly) that this criticism misunderstands what transpired. 'There have been,' he comments, 'allegations about the ideological framing of the policies, with expletives about neo-liberalism flowing freely' (Netshitenzhe, 2018b). The successive policies introduced following the RDP were intended to respond to particular sets of challenges and learning experiences. Continuity and change were both inevitable dynamics, with the former existing at the level of principle, and the latter at the level of detail. The RDP had pointed to the need for a sound macro-economic regime and achieving this was the function of the Growth, Employment and Redistribution (GEAR) plan under very specific circumstances. Netshitenzhe (2018b) comments:

> The adoption of the Growth, Employment and Redistribution (GEAR) macroeconomic framework … was aimed at reducing the budget deficit and interest rates, stemming the outflow of capital and encouraging fixed investments; in a situation of deep mistrust within the private sector, and with the expected post-apartheid dividend not materialising.
>
> … By the beginning of the decade of the 2000s, macroeconomic stabilisation, as envisaged in GEAR had been attained; and overall government expenditure, rates of investment, economic growth

and job creation had all started to trend upwards. GEAR as a stabilisation programme had served its purpose, and it was therefore abandoned. On the other hand, commitment to RDP objectives (i.e. meeting basic needs; developing human resources; building the economy; democratising the state and society; and implementing reconstruction and development) remained!

Since the 1990s, government has attempted to address material problems through redistributive measures within the overall framework of a market economy, with the state acting as the critical vehicle for undertaking these measures. It had rejected a wholesale restructuring of property relations. Regulation, taxation and other interventions were able to generate resources that were redistributed to the poor. Revenue collection (at least at national level) was made more efficient and effective. Measures such as the extension of services to the poor, including subsidised housing, free basic access to potable water and electricity, immunisation coverage, school fees exemption and school feeding schemes along with the expansion of the old age pension and the child support grant were intended to address poverty and to ensure that everyone enjoys the fruits of democracy (Levy, Hirsch and Woolard, 2014: 13). In this regard, South Africa has implemented some of the best welfare interventions among developing countries. This has been a major achievement, albeit one built on orthodox macro-economic frameworks, dependent on consistent economic growth for sustenance and further expansion.

Arguably less successful and more controversial have been the mechanisms created to expand high-level black participation in the economy. Foremost here has been Black Economic Empowerment (BEE), later re-envisioned as Broad-Based Black Economic Empowerment (B-BBEE). It has been described as a means of deracialising the upper echelons of the economy, resulting in outsized benefits to a small group of businesspeople, often with close ties to the ANC (Habib, 2013). Despite the attempt to frame the policy in more inclusive terms – adding words 'broad-based', for example – it has been widely criticised for having offered very little to the country's poor and working class. Even among those supportive of BEE, it is

increasingly accepted that it needs some reform. As trade and industry minister Ebrahim Patel said in July 2019: 'Some say empowerment has not been broad enough or not broad at all. There is real sense we need a rethink on how we implement broad-based polices' (Phakathi, 2019).

Nevertheless, BEE has been accepted to some extent by established business (open criticism is now relatively rare) as a price of operating in South Africa. Politically, BEE has become a cornerstone of government policy, and a major ideological signifier for the ANC government. Lately, there has been a tendency to couch this policy largely in nationalist terms, with beneficiaries portraying themselves as being 'representative' of black people in general (MacDonald, 2006). Ideologically, this impacted the ANC's vision of non-racialism, given that the party was moving towards a culturalist turn to mask the economic enrichment of a relatively privileged section of the black population (MacDonald, 2006).

MANAGING POLITICAL POWER

The ANC assumed power on the back of uncontested political legitimacy as the premier liberation party (Gumede, 2012). Gumede submits that as a general rule, most, if not all, of the liberation parties in power enjoy these unprecedented levels of legitimacy due to their history of struggle. Yet Gumede (2012: 11) maintains that:

> the inability to transform from resistance movement into effective governing parties lies at the heart of the governmental failures of many African independence and liberation movements. Such movements, of which the African National Congress (ANC) is a case in point, come to power with an extraordinary amount of legitimacy, given their history of opposing colonial governments or white minority regimes.

During Thabo Mbeki's presidency (1999–2008), serious cracks within the ANC emerged over who should succeed him as president. Some of the differences were couched around policy issues, including the introduction of GEAR in 1996. Condemned by the 'left' as a

turn towards 'neoliberalism', GEAR was criticised for its content – supposedly rolling back the RDP – and for failing to achieve its own objectives, as well as not having been the product of consultation within the alliance (Mnyandu, 2000). It was also a target of trade union ire. Capturing this, in 2000, COSATU president Willie Madisha remarked: 'Economic policy-making has been increasingly removed from the public domain. Instead, it is largely driven by bureaucrats from the Reserve Bank, the Department of Finance, the IMF and a few conservative academics' (Mnyandu, 2000).

Another issue was Mbeki's quixotic approach to South Africa's HIV pandemic. Appearing to deny the link between HIV and AIDS, his government was averse to providing antiretroviral treatment to those infected with the virus, among others citing costs and affordability. Some within the ANC felt it necessary to link up with civil society groups in opposition to the government their party controlled.

It would seem, though, that these issues were being manipulated to protect the aspirant to the throne, then deputy president, Jacob Zuma, from prosecution for serious allegations of corruption. Faced with this challenge, Zuma swiftly attracted a motley crew of supporters and sycophants around him. These included those who felt side-lined and disillusioned by Mbeki, opportunists seeking a chance at the spoils of office, left-wingers hoping for a major shift in policy and those backing Zuma on ethnic grounds.

All of this would come to a head at the party's conference in Polokwane in December 2007 where Mbeki was defeated in the contestation for ANC presidency – and a year later removed as president of the country. Anthony Butler later commented, 'Perhaps as a result of delusions of indispensability that grip many incumbent factions, the president's allies (and perhaps the president himself) seemed determined to retain control of both the ANC and the state, after the end of Mbeki's expected two terms' (Butler, 2015: 27).

As elaborated below, these dynamics in the ANC had major implications for the capacity and legitimacy of the state – as well as the robustness of other constitutional bodies and the role of civil society – in the decade that followed.

THE CONSTITUTION AS A TRANSFORMATIVE BLUEPRINT

Emerging out of a violent and divided history, the first generation of leaders of a democratic South Africa were determined to set the country on a radically different course. Writing a constitution was the first task that confronted the country after 1994. It was to establish a new set of institutions rooted in a new, democratic set of values. The constitution becomes the supreme law, regulating the multidirectional relationships in society, from the state to the 'ordinary' citizen across all areas of social endeavour.

South Africa's constitution, adopted in 1996, is lauded as one of the most progressive in the world. US Supreme Court Justice Ruth Bader Ginsberg has advised countries looking to write constitutions in the wake of societal upheavals to look towards South Africa for inspiration (*Mail & Guardian*, 2012). The establishment of constitutional democracy helped to set South Africa apart from many of its post-colonial peers.

The constitution was a product of extensive public debate – not just among politicians, but among a very broad range of stakeholders – about what dispensation South Africa needed to craft for a democratic society. While formally drawn up by a constitutional assembly (which comprised the houses of parliament sitting together), the country's leaders had determined that it needed to reflect the views of the people as a whole, and not just of elected representatives. To generate this involvement, a public relations campaign was undertaken (public opinion surveys, along with written, radio and television outreach), and public meetings held. The public were invited to make submissions, and several hundred thousand were received. The constitutional assembly also used what was then a novel technology for South Africa – the internet (SAHO, 2011). This made it 'possible to finalise one of the most advanced constitutions in the world with the greatest possible public participation' (Ebrahim in South African History Online, 2012).

The resulting document contains a wide array of civil, political and socio-economic rights. It was, for example, the first in the world to explicitly include sexual orientation as one of the grounds on which

people would be shielded from discrimination. The incorporation of socio-economic rights was in line with the perspective that there needed to be an enforceable framework, and a compulsory duty laid upon the state to deal with socio-economic injustices – even if progressively over time.

The country's first post-apartheid minister of justice, the late Dullah Omar, phrased it as follows: 'We have … come to the firm conclusion that government must within the framework of the constitution intervene to create real equality' (quoted in Mabandla, 2006).

The ideals of the South African constitution have perhaps been best expressed as transformative constitutionalism. Coined by an American legal academic, Karl Klare, this is 'a long-term project of constitutional enactment, interpretation, and enforcement committed … to transforming a country's political and social institutions and power relationships in a democratic, participatory, and egalitarian direction' (Klare, 1998: 150).

Former Constitutional Court justice, Sandile Ngcobo asserts that the South African constitution ushered in a new and superior constitutional order because it has a 'built-in mechanism to safeguard and protect our constitutional democracy' (Ngcobo, 2016). This is as distinct from systems that are vulnerable to political domination through the doctrine of parliamentary supremacy.[33]

In this system, the courts with the Constitutional Court at the apex are the final arbiters on the management of social relations – with the constitution as the frame of reference. The South African constitution also recognises the separation of powers among the three arms of government (the executive, the legislature and the judiciary). It can be argued that the social orientation of the Constitutional Court judges does have major implications on the interpretation that they would assign to constitutional provisions. Two judgments on social rights deserve mention in this regard.

The first one relates to the 2000 judgment on the right to housing (*Government of the Republic of South Africa v Grootboom*)

33 Parliamentary supremacy is a concept embedded in the constitutional law of some parliamentary democracies. It holds that the legislative body has absolute sovereignty and is supreme over all other government institutions, including executive or judicial bodies.

(Constitutional Court of the Republic of South Africa, 2000), in which it argued that the question of 'available resources' needs to be taken into account. However, it further asserted that the government needed to demonstrate considerable effort to mobilise the necessary resources before it may claim this as grounds for failing to discharge its responsibilities. Where the rights of children were concerned, it needed to provide 'rudimentary shelter irrespective of the availability of resources' (Constitutional Court of the Republic of South Africa, 2000).

The second was the case of Thiagraj Soobramoney, suffering from renal failure, who asked the court to direct the government to provide him with the treatment he required. The court refused to do so, partly on the grounds that the fulfilment of socio-economic rights is limited by the 'available resources' at the disposal of the state (Constitutional Court of the Republic of South Africa, 1997).

Many have argued that the constitution itself was a product of compromise and therefore does not go far enough in advocating for the uprooting of the historical social injustice. Jane Duncan, for instance, contends that the constitution's transformative character is in effect limited to '[tinkering] at the margins of the problem of poverty and inequality', and that it needs to be replaced. 'If constitutionalism is to survive in South Africa, and survive it must, then it must be based on a Constitution that genuinely reflects the will of the people' (Duncan, 2011).

These positions are questionable. The failures of post-apartheid South Africa to live up to the transformative vision espoused by the constitution can hardly be attributed to the nature of the constitution itself. It has not failed society in providing the necessary space for transformation and the guidelines for a state that is accountable to its citizens. On the latter, the Constitutional Court has been quite firm. In a unanimous judgment, the chief justice asserted that '… public office-bearers ignore their constitutional obligations at their peril. This is so because constitutionalism, accountability and the rule of law constitute the sharp and mighty sword that stands ready to chop the ugly head of impunity off its stiffened neck' (Constitutional Court of the Republic of South Africa, 2016).

Former Deputy Chief Justice Dikgang Moseneke (2016: 356) perceptively connects the normative standards set by the constitution

to the practical measures that must be implemented to realise them:

> … [I]t is well and good to have the near-perfect normative standards, but they are not a panacea. Even if they were, they are sometimes observed in the breach. So, the normative standards tell us little about how to achieve inclusive growth in a way that overcomes structural economic inequality and resultant low growth. This must surely mean that the national conversation, particularly with the youth, must urgently concentrate on what is hurting the people of our country most – economic inequality and stagnation.

In other words, it requires imaginative and responsible thinking, as well as ethical behaviour, to translate a constitutional principle into a material reality. The courts do no more than the job they are mandated to do by the constitution. As can be expected – and similar to the debates in India about 'judicial activism' – there has been much discussion in South Africa about seminal judgments of the Constitutional Court. More often than not, these debates are informed by the subjective interests of the interlocutors rather than major issues of principle.

The suggestion that South Africa has moved towards a 'juristocracy' is called into question by the fact that Constitutional Court judges are ultimately appointed by the president. The selection of judges suitable for appointment rests on the Judicial Service Commission (JSC), a majority of whose members are politicians or are appointed by the president. Journalist Niren Tolsi observes that the ANC's representation on the JSC creates 'a powerful position from which to form a caucus to influence the JSC's nominations. This influence has not, however, meant a conveyor belt of executive-minded judges being appointed – merely the potential for such' (Tolsi, 2015). In this sense, the doctrine of separation of powers, crucial for the balancing of power and for '[ensuring} accountability, responsiveness and openness' (Munzhedzi, 2017: 80), is, in the South African constitutional design, a continuous cycle of sites of authority checking and balancing each other out. This, it can be argued, is consistent with notions of liberal democracy.

And so, in terms of South Africa's constitutional architecture, the two seemingly contrasting strands referred to earlier seem to find harmony. On the one hand, it contains classical conceptions of liberal democracy in terms of formal political liberties: regular free and fair electoral processes; transparent and accountable institutions; respect for separation of powers, and respect for civil liberties. On the other hand, the constitution goes beyond formal liberties to assert the other generations of human rights: economic, social, environmental, gender and informational. Many of the rights pertaining to social justice are marked for 'progressive realisation' depending on available resources; but, as shown earlier, there is space for interpretations either way. Current debate in South Africa on whether the constitution allows for expropriation of land without compensation reflects this dynamic. The issue in this regard is whether to leave the vague and suggestive formulations for interpretation by the courts, or whether explicitly to assert this intention. However, such is the constitutional architecture that even this kind of amendment would have to pass constitutional muster in the courts.

Proactive protection: South Africa's Chapter 9 Institutions

Strong institutions have a significant impact on the quality of a democracy. The deliberate establishment of institutions to protect and promote human rights was an important part of the attempt to establish a state which adhered to constitutional norms and standards. The aim, at least in theory, was to empower ordinary people to demand from both the state and other actors in society at large, that their legitimate interests are catered for. The courts of the country have been described above, and the functioning of the administration is dealt with below.

The South African constitution also features institutional innovations colloquially referred to (by their chapter in the document) as Chapter 9 institutions. These are a number of quasi-independent bodies such as the South African Human Rights Commission; the Public Protector (Ombuds); the commissions dealing with rights of linguistic, religious and cultural communities and also with gender, as well as the more standard bodies such as the Auditor-General's Office

and the Independent Electoral Commission.

These bodies are meant to take both reactive and proactive measures to promote citizens' rights, and to exercise oversight over important government functions.

The possibilities that such institutions offer are profound. They serve to engender a just and egalitarian society within the constitution's disciplining framework (De Vos, 2010: 94). While their individual mandates differ, they provide a mechanism for ordinary people to assert their rights both vis-à-vis the state and private individuals or entities. They are meant to enhance accountability. And they should, in principle, allow people to do so without incurring the costs that are so often associated with court challenges. As independent and autonomous institutions, they are essential for providing checks and balances to prevent the abuse of power (De Vos, 2010: 95).

The answer to the question whether they have met expectations is complex. At the level of principle are issues pertaining to the constitutional authority conferred to such bodies and the idealism contained in the constitution's injunctions. At the level of detail are the appointment procedures, which, in the main, entail parliamentary processes and a presidential stamp of approval that can be heavily laden with party political and executive considerations. Then there is the question of personalities – how the appointees perceive of themselves and their role.

There are many examples of consistency and professionalism among these bodies: an electoral commission which enjoys the confidence of the public; a public sector auditing body that objectively draws attention to weaknesses in the management of resources (and which has recently been given more powers of censure, see Public Audit Amendment Act 2018, which came into effect on 1 April 2019); a human rights body that seeks to draw attention to, and censure, racial and other forms of prejudice; a gender commission that campaigns against patriarchy across all areas of social life; and the commission that has sought to navigate and mediate conflicts on language, religious and cultural issues in as diverse a society as South Africa. It may well be that financial and human resources as well as strategic acumen have hindered optimal effectiveness on the part of these bodies, but their

value to the constitutional dispensation is beyond question.

The intersection of the dynamics referred to above – constitutional powers, appointment procedures and nature of the personalities – have come out in bold relief in relation to the Public Protector (PP). An institution designed to hold government to account on allegations of malfeasance, it is an enlightening case study of extremes and the grey areas in-between in terms of effectiveness. The PP is appointed by the president on the advice of parliament. In theory, this should encourage deliberation, but also has within it the possibility of political influence, especially in a polity like South Africa with a dominant party. That the PP is expected to pronounce on matters that are potentially embarrassing to, and can have adverse consequences for, senior executives and public officials heightens this conundrum.

The first PP to be appointed was Selby Baqwa, who is generally positively regarded for having carried out his duties competently – if at times his decisions showed some deference towards the governing party, for which he had been an elected representative. Constitutional law professor Richard Calland suggests that he had followed a course designed to establish the office on a firm footing and had been careful 'not to upset too many political apple carts too early in the life of a new institution. Prudence was the watchword of his investigations' (quoted in Pillay and Ramela, 2016).

His successor, Lawrence Mushwana, had also been an elected representative of the ANC. While he dealt with many cases, he is perhaps best remembered for his conduct in the case where funds were channelled to the ANC from state-owned oil company PetroSA. His report exonerated PetroSA and declaimed jurisdiction, on the basis that neither the company nor the ANC were public entities.

Richard Calland and Gary Pienaar have jointly argued that Mushwana's appointment was, in fact, an attempt to weaken the institution. He appeared deferential to the executive, making the posture of the office 'more docile and less independent – and less predictable' (Calland and Pienaar, 2016: 72).

Mushwana was succeeded by Thuli Madonsela, a former member of the South African Law Reform Commission. Her tenure coincided with a deterioration in the ethical conduct of the executive, particularly

the presidency. She was thus compelled to take on sensitive cases, as civil society and opposition parties inundated her with instances of suspected malfeasance. Besides her very last report, on state capture (dealing with the repurposing of state institutions by private interests for their own enrichment), the most prominent of cases was on the usage of large amounts of state resources to upgrade the private residence of President Zuma. An attempt by the president to challenge the damning report wound its way to the Constitutional Court, which, in 2016 emerged with a judgment containing major implications about the utility of constitutional bodies such as the PP's office in entrenching accountability. To quote from the seminal judgment (Constitutional Court of South Africa, 2016: 27):

> The Public Protector is thus one of the most invaluable constitutional gifts to our nation in the fight against corruption, unlawful enrichment, prejudice and impropriety in State affairs and for the betterment of good governance. The tentacles of poverty run far, wide and deep in our nation. Litigation is prohibitively expensive and therefore not an easily exercisable constitutional option for an average citizen. For this reason, the fathers and mothers of our Constitution conceived of a way to give even to the poor and marginalised a voice, and teeth that would bite corruption and abuse excruciatingly. And that is the Public Protector.

The next and current incumbent as PP, Busisiwe Mkhwebane, has attracted much criticism for seemingly pronouncing – quite consistently – in favour of forces that were closely associated with former president, Jacob Zuma. This has resulted in scathing court judgments against her. One such judgment, pertaining to an alleged financial lifeboat given to a private banking institution (ABSA) by the Reserve Bank in the 1980s, questioned her very competence and impartiality. Later confirmed by the Constitutional Court, the judgment of the North Gauteng High Court averred (Nicholson, 2018):

> The Public Protector did not conduct herself in a manner which would be expected from a person occupying the office of the Public

> Protector… She did not have regard thereto that her office requires her to be objective, honest and to deal with matters according to the law and that a higher standard is expected of her … In the matter before us it transpired that the Public Protector does not fully understand her constitutional duty to be impartial and perform her functions without fear, favour and prejudice.

This and many other such judgments have resulted in the initiation of a parliamentary process for her impeachment.

De Vos comments that institutions like the PP are 'often caught between Scylla and Charybdis, having to please the executive and the legislature while also having to act independently from them' (De Vos, 2011: 163). Besides the details about the personalities, this case study on the Public Protector's office affirms that circle of checks and balances across various constitutional institutions in South Africa's democracy. South Africa's Chapter 9 bodies must both rely on and cooperate with the executive and legislature, and also stay at arms-length from them. They need to retain the goodwill of those who hold both power and resources, and at the same time be willing, when objective circumstances so demand, to take a highly adversarial stance towards them. With the best will in the world, this is no easy task. The fact that South Africa is a highly contested and politically polarised environment aggravates this.

THE ASPIRATION FOR A DEVELOPMENTAL STATE

Growing unhappiness with South Africa's high rates of unemployment and inequality has led to vigorous debates around alternative growth strategies and the necessity for a democratic developmental state to facilitate growth (Jourdan, 2014: 1). There are varying definitions of the developmental state, but its overall purpose is to engage state power for higher economic growth and development. Elements of this thinking have been around in one form or another since the 1990s. The Reconstruction and Development Programme (RDP) did not use the phrase, but its import was clear enough. For example, it said that 'a developmental culture … should be encouraged' (ANC, 1994). In

2000 – a year into his presidency – then president, Thabo Mbeki (2000) said in Parliament:

> The system of governance we are working to create is radically different from the one we inherited. It is focused away from repression, control and management of people. It is targeted at helping us to meet the provisions laid down in our Constitution of 'improv(ing) the quality of life of all citizens and free(ing) the potential of each person'. Accordingly, ours must be a truly developmental state.

For the ANC, the developmental state is inextricably linked to both its own ideological predispositions and the notion of power. This was illustrated in a 1996 discussion paper, in which a strong state was explicitly advocated, and the motives of those calling for state powers to be limited were questioned (ANC, 1996):

> The democratic movement must resist the liberal concept of 'less government', which, while being presented as a philosophical approach towards the state in general, is in fact aimed specifically at the weakening of the democratic state. The purpose of this offensive is precisely to deny the people the possibility to use the collective strength and means concentrated in the democratic state to bring about the transformation of society.

Together, the framing of the ideas is revealing. The developmental state invokes both the socio-economic upliftment of the country's people as a prime goal of policy, combined with a rights-based recognition of the people's claim on the state's attention. Development should be hard-wired into the state system. It should be transformative for its recipients, empowering them and creating a virtuous cycle of opportunities. Moreover, wide-ranging state powers are a key part of the ANC's political outlook, necessary not only for the performance of the state's (extensive) mandate, but to alter the nature of society. There is a near-seamless transition in the 1996 document between the ANC (the 'democratic movement' – itself a revealing descriptor), the state and the people.

The state as the prime driver of development has come to occupy the centre of the ANC's policy worldview. At its 2007 national conference, the ANC specifically pledged to build a developmental state that would play a strategic and central role through direct investment in underdeveloped areas and through channelling private sector investment, address unemployment, poverty and inequality and accelerate economic growth; and address uneven patterns of ownership (Edigheji, 2010: 1). The conception of the kind of society that the ANC seeks to build is captured in its 'Strategy and Tactics' documents, repeated almost word for word in both 2007 and 2017 (ANC, 2017). This is envisaged as a national democratic society, combining the 'best' attributes of both a developmental state as experienced in Southeast Asia and social democracy in the manner of Scandinavian societies. The aim, it is argued, is to:

> … build a developmental state shaped by the history and socio-economic dynamics of South African society. Such a state will guide national economic development and mobilise domestic and foreign capital and other social partners to achieve this goal…
>
> The ANC therefore seeks to build democracy with social content, underpinned by a capable developmental state. Informed by our own concrete conditions and experiences, this will, in some respects, reflect elements of the best traditions of social democracy, which include: a system which places the needs of the poor and social issues such as healthcare, education and a social safety net at the top of the national agenda; intense role of the state in economic life; pursuit of full employment; quest for equality; strong partnership with the trade union movement; and promotion of international solidarity (ANC, 2017).

The National Planning Commission (NPC) has also emphasised the need for a 'capable developmental' state. Ongoing calls for a 'social compact' – a negotiated, formalised agreement between major stakeholders on common goals, on the means to achieve them, and on how the costs of doing so would be shared – are an indication that this goal has not yet been reached.

This inevitably raises the issue of the feasibility of this proposal. There are many critics of it. In its conception of a developmental state, the NPC emphasises the capacity and capability of the state, a tacit acknowledgement of the challenges related especially to state capacity (NPC, 2015: 129). More recently, the presidency's 'Towards a 25 Year Review' draws specific attention to the ways in which provision of basic services (and hence development overall) is hindered by capacity constraints. These constraints are framed as matters pertaining to skills, management and the effective operation of governance systems – even where adequate resources have been made available. The 'Review' puts it in these words (The Presidency, 2019):

> Another barrier has been limited capacity for service delivery: despite investments made, the state still has limited capacity and capabilities to deliver services, especially at local government level. Accountability in the public sector is persistently weak, even though there is a relatively sophisticated accountability architecture in place. There is a lack of consequence management for misconduct and poor performance. The governance of State-Owned Companies (SOCs) remains weak, as is evidenced by a regression in audit outcomes, allegations of wide-scale corruption, and their extremely precarious financial situations. Corruption, real and perceived, has hampered the country's capacity to deliver services, despite the comprehensive architecture in place to prevent and combat it.

In a similar vein – in an analysis written from a public management perspective – Damian Ukwandu of the University of Johannesburg argues that it is not possible to describe South Africa as a developmental state, at least not when measured against existing literature on the subject, and particularly with reference to the experience of Asia. He says this is the case whether looking at the design and practices of the South African state, or its effectiveness in achieving developmental goals – even though there are 'fragments' of developmental state practices in South Africa. Ukwandu contends that fundamentally political factors and the choices they have encouraged have undermined the prospects of such a state: 'The real task of implementing the policy of

the developmental state is difficult for the ruling party. This is because it will mean the end of cadre deployment, the end of viewing state-owned enterprises as a source of political patronage, and an end to state capture etc' (Ukwandu, 2019: 59).

Given the various attributes that the ANC itself agrees the developmental state should have (in terms of vision, legitimacy, macro-organisation of the state and professionalism of the bureaucracy), it can be argued that a developmental state is still an aspiration, far in the distance, for South Africa.

In relation to the notion of democratic consolidation used in this report, it is quite clear that the South African state evinces all the major characteristics of liberal democracy in relation to political rights, including regular elections, separation of powers and an independent judiciary, and the variety of freedoms that are contained in the country's Bill of Rights. Conceptually, South Africa's democratic government appreciates – as enjoined by the constitution – that formal political rights would be virtually meaningless if not accompanied by progressive realisation of social justice. As elaborated earlier, some progress has been made in this regard; but fundamental restructuring of inherited colonial social relations is still a long way off.

Why have these neatly conceptualised ideals not come to fruition? In part, this has got to do with the global environment within which the South African post-colonial state emerged, characterised by the triumph of neo-liberalism – thus constraining the space within which the post-colonial government, managing a small open economy, would pursue its programmes. Secondly, the democratic government inherited a state that not only lacked capacity to meet the needs of all of society. It was also one that had its coffers squandered through the apartheid state's wars of destabilisation in the region, international sanctions and systemic corruption at the centre of government and in the vassal Bantustan 'states'. Thirdly, the new political elite did not have the capacity to speedily transform the inherited apartheid state colossus and redirect it to meet its objectives. The fourth reason, which is the subject of the next section, is about corruption and how – some two decades into democracy – it had become so entrenched that it threatens the very democratic project in South Africa.

SYSTEMIC CORRUPTION AND STATE CAPTURE

Ukwandu's assertion about corruption (2019) raises a seminal matter that has come to occupy centre-stage in public debate. Governance problems and corruption have beset South Africa's democratic order since its inception. Over the past decade, this was put onto an altogether more serious level. State capture – the term used to describe the way in which a government is manipulated by private interests – is perhaps the ultimate expression of corruption.

The nine years that have come to be known as the period of 'state capture', under President Jacob Zuma, were characterised by high rates of corruption in the public sector – especially in state-owned companies that are key to building a developmental state. This period demonstrated how political power and personal venality could be married with aggressive (and unethical) business practices to secure large commercial advantages while offloading the costs onto the state, and thereby to the public. Political protection and the suborning of institutions meant to enforce the country's laws provided the perpetrators with a large degree of immunity, at least until political power at the apex changed hands.

In the meantime, considerable damage was done to the country's institutions. From an economic developmental perspective, the 'looting' of state-owned enterprises such as the power utility (Eskom), the state airline company (SAA) and passenger rail entity (Prasa) turned them from being developmental assets into public liabilities. Eskom, for example, has a debt in excess of R440 billion, most of which is guaranteed by the fiscus; and it is forced from time to time to institute 'load shedding' measures at great cost to the economy.

All of this dented the public's trust in the state as an active pro-poor economic actor. State capture undermined the credibility of the idea of a developmental state.

It should be appreciated that the entrenchment of corrupt practices within the South African post-colonial state evolved over many years, until it reached intolerable proportions, leading to mass protests and ultimately the removal of Jacob Zuma from office in 2018, before his presidential term expired. By then, the ANC had come to appreciate

that its fortunes as a political party were in perilous decline; and it stood the chance of being unseated in national government.

The fundamental question in terms of democratic consolidation is: What are the factors that render it possible for some of the political elites in post-colonial societies to abandon the ideals that informed the struggle for liberation? Netshitenzhe (2016b) identifies five critical factors, some generic and others unique to South Africa. The first factor relates to what the liberation movement inherits during the transition, especially where old order functionaries are accommodated. Because the colonial state imposed its rule and legitimacy through 'force and subterfuge', it had to develop systems of patronage for sections of the population to 'purchase the obsequiousness of its constituency through privilege and favouritism', while maintaining the support of black collaborators.

The second factor is about how power is exercised in a complex bureaucracy. A system that is unwieldy encourages citizens to try and find ways of circumventing the rules. In turn, the bureaucrats themselves 'are wont to seek underhand benefits'. Where the power wielded by state functionaries has 'massive implications for the citizen – individual or corporate – and state remuneration does not approximate the extent of the power, all manner of temptation is injected into the system, with "weak" personalities easily tempted' (Netshitenzhe, 2016b).

The third issue relates to the complex process of post-colonial class formation – the necessary emergence of an indigenous capitalist class and the distortions that can accompany this. This is a necessary element in the process of social change; but it can have 'unintended consequences… In trying to mimic white lifestyles, the emergent elite over-extends itself and individuals are then tempted to sustain newly acquired tastes through corrupt means' (Netshitenzhe, 2016b).

Fourthly, opaque systems of party funding have a corrupting influence on the democratic system as a whole. 'The practice of returning favours for donations infects virtually all democracies, and it is not unique to post-colonial societies. This does add toxicity to party-state relations, [as party leaders] intervene to undermine state processes, whether in government departments or state-owned enterprises.'

Lastly, and particularly relevant to systemic corruption and state capture, there is the case of cadres of the liberation movement with limited capacity for self-restraint. These 'personalities who either do not have any, or lose all, sense of compunction and shame' – bordering on psychopathy – Netshitenzhe (2016b) argues '… get entangled in venality hook, line and sinker'.

State capture, as distinct from ordinary corruption, is described by Hellman and Kaufman (2001) as a situation in which:

> … firms seek to shape decisions taken by the state to gain specific advantages, often through the imposition of anti-competitive barriers that generate highly concentrated gains to selected powerful firms at a significant social cost. Because such firms use their influence to block any policy reforms that might eliminate these advantages, state capture has become not merely a symptom but also a fundamental cause of poor governance. In this view, the capture economy is trapped in a vicious circle in which the policy and institutional reforms necessary to improve governance are undermined by collusion between powerful firms and state officials who reap substantial private gains from the continuation of weak governance.

While the conflicts within the party in the 2000s were, to some extent, couched in ideological terms, it became clear a few years into the Zuma administration that many of those who coalesced around him were, in fact, pursuing selfish and corrupt ends. Over time, these individuals built a network that was located in cabinet and the bureaucracy, state-owned enterprises, in security and law-enforcement agencies, and in business networks across various sectors. As elaborated in a comprehensive report on state capacity and state capture (State Capacity Research Project, 2017), this elite:

> … sought to centralise the control of rents to eliminate lower-order, rent-seeking competitors. The ultimate prize was control of the National Treasury to gain control of the Financial Intelligence Centre (which monitors illicit flows of finance), the Chief Procurement

Office (which regulates procurement and activates legal action against corrupt practices), the Public Investment Corporation (the second largest shareholder on the Johannesburg Securities Exchange), the boards of key development finance institutions, and the guarantee system …[that would allow state entities to] borrow from private lenders/banks without parliamentary oversight.

The centre of this network was a family of immigrants from India (the Gupta brothers), who seemed to hold the president and some senior ANC politicians in their spell. In the words of the State Capacity Research Project (2017) report:

Whereas the promise of 1994 was to build a state that would serve the public good, the evidence suggests that our state institutions are being repurposed to serve the private accumulation interests of a small powerful elite. The deepening of the corrosive culture of corruption within the state, and the opening of spaces for grafting a shadow state onto the existing constitutional state, has brought the transformation programme to a halt, and refocused energies on private accumulation.

While the state capture network revolved around the Zuma and Gupta families and a coterie of provincial barons and other hangers-on, large and 'respectable' multinational companies were gradually drawn into this web. Some were corralled by greed into facilitating the repurposing of state institutions; others lent respectability to the ledgers by turning a blind eye during auditing processes; yet others facilitated illicit financial transactions; and some of the companies simply succumbed to extortion or adapted their operations to the corrupt environment in which they found themselves. Companies such as SAP (a European multinational software company), McKinsey, China South Rail, KPMG, Bain, HSBC and Bank of Baroda are variously mentioned in investigative reports on the web of state capture in South Africa.

The ANC found itself deeply divided over the Gupta problem, and over the implications of this phenomenon on its popular legitimacy. The results of the local government election in August 2016 – which

saw the ANC lose control of Johannesburg, Tshwane and Nelson Mandela Bay – underlined the damage the issue had done.

At its 2017 National Conference, then deputy president, Cyril Ramaphosa, won a narrow victory to become leader of the ANC and later of the state. He had campaigned on a platform of fighting corruption and state capture; and he has since been credited with attempting to deal with the destructive legacy of the past decade. He is, however, stymied by the degree of infighting in the ANC – making the process of renewal of the ANC, the state and society at large rather slow and tortuous.

What does this experience mean for democratic consolidation in South Africa? State capture and the declining capacity and legitimacy of the state during the Zuma administration tested the robustness of institutions of constitutional democracy in South Africa. While large swathes of the state machinery (including state-owned companies, intelligence agencies, the police, the tax administration and parts of the legislature) were severely compromised, the judiciary and organs such as the Public Protector distinguished themselves as a shield against the repurposing of the state. At the same time, the very threat of losing legitimacy and power propelled sections of the ANC to fight for change – emphasising the potential of electoral democracy as an inherent corrective mechanism. A central role in the change of fortunes was played by civil society, the generic role of which we reflect on below.

CIVIL SOCIETY IN SOUTH AFRICA

Pre-1994, a large section of the country's civil society organisations was supportive of the liberation movement. As elaborated earlier in relation to the United Democratic Front, the mass movement that emerged during the years of anti-apartheid struggle, especially in the 1980s, paid allegiance primarily to the ANC and accepted it as the vanguard of the struggle for national liberation. The ANC itself, which saw mass organisation and mass mobilisation as important pillars of the all-round struggle, either initiated the formation of civil society organisations or won over large sections of the leadership and activists

of existing ones behind its policies. This was in line with the notions of 'hegemony' as popularised by Italian Marxist Antonio Gramsci and 'broad fronts' popular during the Second World War and in the anti-colonial movements across Asia and Africa.

The assumption of political office by the ANC introduced its own complications. As Ayanda Ntsaluba affirms: 'The transition to democracy was under the careful handling of leaders that we fully trusted, who had given everything to the struggle'.[34] Activists involved in such campaigns as human rights promotion, sport, youth development and religion were deeply invested in the ANC. As such, many leaders of civil society organisations moved into an ANC-led government at political and bureaucratic levels, 'thus denuding civil society of its experienced leaders'.[35] A few prominent ones, self-declared members of the ANC such as Kumi Naidoo, who had been in exile in the UK, rose within civil society ranks to head up the South African National NGO Coalition (SANGOCO), and later global movements such as Greenpeace and Oxfam.

It was inevitable that sooner or later civil society groups would come into conflict with the government. Much of this conflict took on an explicitly ideological bent, typically associated with differences on the pace of transformation and the posture of the government towards global economic orthodoxy that was then in vogue. Although at times the critiques were muddled and somewhat inaccurate, this can be summarised in the words of Trevor Ngwane (2001), a former ANC local councillor who was expelled from the ANC for opposing privatisation plans and became part of local NGOs in the county's Gauteng province:

> When the ANC was first elected its central policy was the RDP – the Reconstruction and Development Programme. This was supposed to roll back the legacy of apartheid through massive house-building, big improvements in healthcare and other services, plus the democratisation of the state. Within two years the RDP had been buried. Instead we had GEAR – Growth, Employment

34 Ayanda Ntsaluba, interviewed on 4 June 2019.
35 Joel Netshitenzhe, interviewed on 19 September 2019.

and Redistribution. It is openly about market-driven development
– which means development for the rich. The rich have got richer
and the poor have got poorer. There is a fightback.

Joel Netshitenzhe[36] is of the view that the evolution of many civil
society organisations in the post-colonial period was shaped in part
by the fact that the experienced corps of cadres had migrated into
government as well as business and academia. While there was much
in the performance of the new democratic government that needed to
be challenged, many of these organisations adopted an oppositional
attitude towards the state. Netshitenzhe argues that while there was
nothing wrong in opposing government and holding it to account,
civil society also needed to be self-critical in terms of whether it was
not perpetuating isolationist politics in the way it challenged the new
democratic state. This, in essence, is to argue that civil society's role
should go beyond knee-jerk critique of government to also become a
partner in development.

Overall, civil society in South Africa has played an important role
in holding the new political elite to account. Foremost among these,
with ebbs and flows during various periods of internal ANC political
dynamics, has been the Congress of South African Trade Unions
(COSATU), consistently campaigning for the protection of the rights
of workers. It engages the government on issues including employment
conditions, labour laws and macro-economic policy. COSATU and
the trade union movement at large have pushed the frontiers of critical
discourse. Engaging the governing party on bread-and-butter issues
of the working class ensures that the state remains conscious of its
constitutional responsibilities.

However, owing to its alliance with the ANC, COSATU is an
ambiguous expression of the idea and efficacy of civil society. It is
not entirely independent of political power and the ANC's palace
politics. In addition, over the years, some of the rights it gained within
the workplace (as with most other established unions) resulted in its
leadership at various levels being enticed into lifestyles that are at
variance with the conditions of its mass base. While it is the country's

36 Joel Netshitenzhe, interviewed on 19 September 2019.

largest federation, substantial numbers of workers have chosen alternatives, such as the unions affiliated to the more centrist Federation of Unions of South Africa (FEDUSA). It has also been challenged by the rise of the Association of Mineworkers and Construction Union (AMCU), which attempts to represent a more radical socio-political stance – in effect, trying to upend COSATU's claim to represent a truly radical alternative. In the platinum mining industry, AMCU has displaced the COSATU-affiliated National Union of Mineworkers, accusing it of complicity in the ongoing failure to address workers' grievances.

The nature of the constituency that COSATU represents has shifted for various reasons. Its members are often more skilled than previously, and are increasingly likely to be found in the public than private sector. With the prevailing levels of poverty and unemployment, it can well be argued that a gulf has grown between the interests of COSATU's own constituency (and that of established federations) and those of the country's 'chronic poor'. As a consequence of differences on how to handle internal ANC factional battles, a sizeable section of COSATU broke away to form a rival federation, the South African Federation of Trade Unions (SAFTU) in 2017.

South African academic and political analyst Steven Friedman argues that there is a special role for civil society in any democracy. While formal platforms and processes to enable this may be helpful, they are not necessarily fully effective. Friedman (2006: 3) cites activism on the issue of HIV and AIDS as a prime example:

> The contrast between the impact of AIDS activism and the inability of formal participatory mechanisms to provide a voice to citizens in general, the poor in particular, suggests a need to rethink participatory governance. Instead of viewing it as the product of government willingness to create formal channels for citizen participation, we need to see it as a process in which citizens use rights, employing methods and channels of their choice (within the constraints imposed by democratic order) to compel governments to deal with them on their terms, not those convenient to power-holders. Citizen participation in government – and in particular that

of the poor – is more likely, therefore, not when governments create formal mechanisms to ensure it but when they develop attitudes and institutions accessible to citizen action.

Friedman's frame of reference is the Treatment Action Campaign (TAC), a lobby group widely noted for its successful challenge to government policy on HIV. It was launched in December 1998, interestingly, not to oppose government, but to put pressure on pharmaceutical companies on the prices of antiretroviral drugs. That elements in government would, at first, deny the link between HIV and AIDS was not something that initially occurred to the TAC's leadership (Friedman and Mottiar, 2004: 3).

The TAC drew on a constituency that often lacked voice and visibility – its support base was disproportionately among young, unemployed black women. Nevertheless, its strategies were creative, and its messages resonated far beyond this group. In campaigning for treatment, it was prepared to engage in public protests, to express itself in the media, to network with other organisations and activists (both in South Africa and abroad), to conduct face-to-face lobbying and to launch court actions (Katito and Aggad, 2009). The TAC'S campaign was important in consolidating democracy because it emphasised 'the role of collective action in deepening democracy and enabling citizens to claim a share in popular sovereignty' (Friedman, 2018).

The TAC was willing to pursue a dual strategy of both confrontation and cooperation with South Africa's government. Friedman and Mottiar (2004: 4) opine that, even in its activism, the TAC was not entirely shorn of its links with the governing party:

In TAC, ANC members are numerically dominant – as they are in most membership organisations given the ANC's majority. Treasurer Mark Heywood says TAC is 'neither anti-government nor anti-ANC'. It is prepared to oppose both fiercely if needs be but appreciates that 'if there is a party composed of the poor it is the ANC'. Frequent statements by Achmat[37] that he is a 'loyal member of the ANC' elicit criticism from activists in other social movements.

37 Zackie Achmat is the co-founder of the Treatment Action Campaign (TAC)

Senior TAC officials acknowledge that, while it endorsed the role in the ARV 'roll-out' of the ANC-NNP Western Cape government, this may have been impossible if the province was governed by the Democratic Alliance. So, despite its independence and diversity, TAC, unlike most social movements, has a political identity which ensures a relationship with the government and ANC.

In this respect, the trajectory of the TAC is not dissimilar from that of COSATU's, albeit without the overt, formal government alliance. However, the imprint of the dominance of the ANC – perhaps, more appropriately, what Anthony Butler has termed the 'idea' of the ANC – has greatly influenced these two organisations. In a sense, much of active civil society in South Africa reflects a wrestling with the emancipatory promise of the ANC against the capacity of the democratic government to realise these ideals.

The experience of both the TAC and COSATU does underline the challenge of elitism within civil society itself, leading to some form of social distance from the mass of marginalised groups facing deep levels of poverty. In a review of some of Friedman's work, Neeta Misra-Dexter and Judith February (2010: xvi) comment:

Friedman's example of the shallowness of civil society in dealing with poverty reduction is particularly effective in capturing the relationship between poverty alleviation, civil society and government policy, and highlighting the interrelatedness between the development and democracy processes. Friedman argues that because civil society is insufficiently representative of its constituency, a mismatch has arisen between policy and the needs of the poor. Civil society organisations that deal with poverty issues are unable to act appropriately on behalf of the 'voiceless' poor, leading to a disjunction between their needs and concerns and the policies devised to deal with them.

Misra-Dexter and February (2010: xvi) also underline Friedman's observation 'that civil society in South Africa should focus less on its relationship with government, and instead seek strategic openings

to influence government decisions while building social alliances and creating a moral consensus in society'.

However, subsequent developments do provide a more optimistic reading of civil society's awareness of the importance of constitutional democracy. For instance, opposition to the Protection of Information Bill – on the grounds that it would enable extensive state secrecy and undermine public accountability – was widespread and cut across boundaries of organisational interest and ideology. The campaign of the Right to Know (R2K) coalition was signed by dozens of groups, their diversity being evident in the following small sample: Anti-Privatization Forum, AfriForum, BirdLife South Africa, CIVICUS, Economists Allied for Arms Reduction, Idasa, Institute for Justice and Reconciliation, M&G Centre for Investigative Journalism (amaBhungane), Open Democracy Advice Centre, Politicsweb, Sannieshof Ratepayers Association, St Martin's Anglican Church, Treatment Action Campaign, UCT Press (R2K, 2010).

During the period of the second decade of democracy and beyond, among the critical trends in respect of civil society organisation that deserve noting are the following:

Firstly, there has been a tendency towards increased specialisation and narrowing of focus among the individual organisations. The TAC, R2K, Section 27 (dealing with matters pertaining to access to quality basic education), Corruption Watch and Freedom Under Law are just some of the instances of such issue-based organisations. In addition to these, various foundations, associated with retired prominent public figures, have also increasingly championed or identified with a variety of civic struggles. Many of these organisations have used both mass and legal sites of struggle to promote their causes. While, during the anti-apartheid struggle, decentralisation ensured links with specific constituencies, this was overlaid by a national umbrella structure (the UDF), which ensured coordination, integration and an overall strategic posture. On the other hand, the South African NGO Coalition (SANGOCO) meant to coordinate these organs has declined in prominence over the post-apartheid years.

Secondly, with the decline of the South African National Civic Organisation (SANCO) – ironically as it grew closer to the

ANC – many local struggles have tended to emerge more or less spontaneously, in some instances leading to the formation of issue-based organisations. A case in point are the local struggles around housing, which have spawned Abahlali baseMjondolo (residents of informal settlements). The organisation has been a thorn in the flesh of local authorities, encouraging occupation of urban plots of land and promoting the rights of these residents, particularly in the KwaZulu-Natal province, though it has (less successfully) sought to spread its wings to other provinces.

Thirdly, the campaign for access to tertiary education among the poor (in itself a product of successes in terms of improving pass rates in basic education) grew into a large mass protest movement after years of occasional skirmishes. While the protest itself did not congeal into an organisation, and was merely identified as the #FeesMustFall (#FMF) movement, it has had a huge impact on the outlook of students, young intellectuals, and indeed society as a whole. It attained its main objective of access by children of the working poor, and has generated critical discourse on the meaning of democracy and the realisation of socio-economic rights. Partly because its leaders identified with different political parties and also due to initiatives of these parties, many of the leaders of the #FMF movement have since been accommodated in formal structures of the political parties as members of legislatures after the 2019 election.

Lastly, as elaborated earlier, the rise of systemic corruption and state capture led to mass campaigns to defend the democratic state and entrench ethical governance. Most civil society organisations, formal structures of business, and organisations set up specifically to campaign around this issue (which included informal groups of ANC members such as veterans) coalesced around the campaign against state capture, and also marshalled the arsenal of intellectuals located in various institutions. The turnaround, which started with the outcome of the 2017 ANC National Conference, is a reflection of the power of civil society in the South African setting – which can be extended to signify the power of the electorate. However, the tendency has been for such campaigns to peter out when the immediate objective is attained. In this instance, though, there seems to be a realisation that continued

joint effort is required to sustain this fight because eliminating state capture is complex. These organisations, the campaigners argue, need to serve as a supportive critic – rather than cheerleader – of the current administration in rebuilding the South African state and ensuring that corrupt elements are brought to book.

CONCLUSION

Twenty-five years have elapsed since South Africa's democratic transition. While it is not uncommon to hear throwaway comments from any number of quarters that 'nothing has changed', the reality is that South Africa is a vastly different country from what it was in 1994. This is true in the nature of its institutions, the conduct of its politics and the operation of its economy. The appropriate question is not whether the post-apartheid society is different from what went before, but what those changes signify. Gumede (2012) has warned that the political legitimacy enjoyed by the liberation party will dissipate with time if the aspirations of the people – especially those previously marginalised – are not met. Once that happens, any manner of anarchic forces could be unleashed, throwing society and its democratic life into disarray. Robert Mattes, then of the Institute for Democracy in South Africa (Idasa), argued in a 2002 article that this situation had grave implications for South Africa's democracy: 'South Africans' support for democracy is modest, in part, because they understand democracy to mean the delivery of a range of socio-economic goods, and progress toward this goal has been slow' (Mattes, 2002: 33).

Indeed, there exists a disturbing undercurrent to South Africa's politics. Data compiled by Municipal IQ showed that 'major' service delivery protests had risen form 34 in 2005 to 237 in 2018 (The Presidency, 2019: 25, 39). Perhaps more concerning, the South African Reconciliation Barometer records that 8.3 per cent of respondents had used 'force or violence' for a political cause, and another 14.3 per cent would be prepared to do so if the opportunity arose.

Confidence in public institutions had declined markedly during the years of state capture, with some resurgence registering in the recent period. According to the Institute for Justice and Reconciliation's SA

Reconciliation Barometer Survey (Potgieter, 2019), after the public broadcaster (SABC):

> The institution South Africans have the second-most confidence in is the president, with 48.4% of South Africans stating that they have 'Quite a lot' or 'A great deal' of confidence in current President Cyril Ramaphosa – up 24.5% from 23.9% confidence in 2017 when, under Zuma's presidency, the president was the least trusted institution of all listed. The South African Revenue Service (SARS) is the third-most trusted institution, with 45.5% of South Africans reporting that they have 'A great deal' or 'Quite a lot' of confidence in the tax collector in 2019 – up 5.6% from 39.8% confidence in 2017. At the other end of the scale, the National Prosecuting Authority (NPA) garnered the least confidence in 2019, with 32.2% of South Africans reporting confidence in the institution, although this is a 2% increase in confidence from 30.2% in 2017. Local government follows the NPA closely, being the second-least trusted institution with 33.5% of South Africans reporting confidence in this institution.

To turn this around and sustain the mildly higher trajectory of resurgence – for democracy to 'consolidate' properly – requires not only formal processes but also the continuous involvement and inclusion of citizens in their own and the country's development. It refers partly to the public seeing themselves as stakeholders, benefactors of socio-economic transformation programmes that should be created deliberately to ensure inclusive development. The extent to which the concerns of the marginalised and excluded are sufficiently addressed also has a significant impact on the sustainability of democracy. Hence, as argued by Suttner (2004), the rates of unemployment and inequality need to be addressed for the democratic order to hold.

South Africa's extreme inequality is untenable and threatens to erupt as the poor become increasingly despondent, partly because progress is accompanied by greater expectation and when expectations are not met impatience rises (Netshitenzhe, 2016a: 4–5). Democracy without socio-economic rights is ineffectual; civil rights alone do not improve material

conditions. The old structure of the economy persists; 'progressive' economic ideology has not been prevalent.[38] Without answering the socio-economic questions, democracy cannot be fully consolidated. Mamphela Ramphele echoes some of Gilder's concerns:

> Democracy is about how you govern yourselves. You have to have a vision of what kind of society you want and the democracy you build is supposed to reflect the values of that vision; and what we have in theory is a democracy, a constitutional democracy defined in our constitution that embraces those values. But that democracy is not a lived reality for eighty per cent of South African people, so we are not yet free.[39]

These views are consistent with this study's earlier argument that a democracy that does not change the life experiences of its majority citizens cannot be called a national democracy. For it to do so, it must be structurally geared towards answering the socio-economic question.

Indeed, the imperative of doing so has been recognised by each of the government's development plans since 1994. The NDP, for example, sets out its objectives within this framework (NPC, 2012: 35):

> A growing economy, rising employment and incomes, falling inequality, an improving education system, fertile conditions for entrepreneurship and career mobility will contribute significantly to uniting South Africa's people. Programmes such as affirmative action, black economic empowerment and land reform are most effective when the economy is growing, and the education system is improving. Without such an environment, these measures can raise the level of social tension.

What are South Africa's prospects of addressing this challenge? With growth at under 1 per cent per annum, and an unsustainable fiscal position, it is hard to see how South Africa can attain the totality

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38 Barry Gilder, intellectual and anti-apartheid activist, interviewed on 31 July 2019.
39 Mamphela Ramphele, interviewed on 11 June 2019.

of the ideals enshrined in its constitution. Unfortunately, as South Africa entered the second decade of the millennium, its prospects were massively aggravated by the global emergency of the COVID-19 pandemic, credit rating downgrades, a worsening fiscal position as well low rates of economic growth and skyrocketing unemployment.

While significant efforts are being made to root it out, corruption remains a serious threat to the quality of democracy as well as to prospects for socio-economic development. Patronage networks – both informal and quasi-formal – continue to operate in parallel with, and sometimes in opposition to, the state's political institutions. The opaqueness of the distinction between public and private interests is stubbornly persistent. Personality-based factional politics and appeals to racial solidarity (Beresford, 2015: 2) are to a large extent still the stock-in-trade. Extreme poverty and inequality create space for political entrepreneurs to exploit access to public authority to navigate poverty, in the process exacerbating inequality (Beresford, 2015: 4).

Those invoking a developmental state as the basis for movement forward need to be more decisive, in actual practice, in demonstrating its efficacy. Peter Evans, in his book *Embedded Autonomy: States and Industrial Transformation*, argues that a developmental state must be at once highly professional, capable and meritocratic (that is, autonomous in decision-making), as well as networked (or embedded) among important stakeholders in society for it to be developmental (Evans, 1995: 12). The South African state lacks much of the former, while, in respect of the latter, it had developed tendencies in which linkages are often selective and patronage-driven, as well as heavily politicised and often personalised.

Patronage-based 'cadre deployment' has been a significant hindrance to the development of a professional state system. Turning this around will, in other words, demand that the ANC take serious stock of the state of the party and its impact on governance. As Netshitenzhe said at an event organised by the eThekwini Metro in 2015 (Netshitenzhe, 2015):

We should avoid at all times conflating the party, the government and the state. While the bureaucracy is obliged to carry out the

popular mandate as directed by the ruling party in any specific sphere, it has a broader responsibility in relation to society; in relation to the burghers of eThekwini – from big and small business to workers and the unemployed – on matters pertaining to provision of municipal services.

Arguing for a social compact as a basis for placing the country on a higher development trajectory, Netshitenzhe (2020), identifies five pillars for such a compact: economic growth, a decent standard of living for all, reduction of inequality, a societal leadership with strategic acumen, and, critically, a state that is able to give leadership to society. On the attributes of the state, he argues:

> The first attribute should be its ability to develop a vision. Arguably, the National Development Plan constitutes such a vision, and the question is whether it is being implemented, monitored and – where necessary – updated. The second commitment required of the state is constantly to build legitimacy among the citizens. Ethical conduct and enforcement of this also in the private sector is fundamental to this. Measures such as lifestyle audits should be urgently implemented. Thirdly, the macro-organisation of the state, in terms of the size of the executive and the administration, as well as measures to improve and rationalise State-owned Enterprises are critical. The apex of government, the Presidency, should have a Pilot Agency, a centre with authority, leverage and legitimacy to marshal all of government behind the plans, not departmental fiefdoms. We also need to have clear targets with timeframes to put the local government system on an optimal footing. The last commitment required of the state is to build a bureaucracy capable of translating a vision into implementable projects. In the immediate, we need to ensure security of tenure especially for senior managers; and there is need authentically to align the Medium-term Strategic Framework with the NDP with proper indicators for monitoring and evaluation, not only by government; but also, by civil society.

Former chief justice Sandile Ngcobo argues that the process of getting

the country back on track will demand a sustained effort from a citizenry committed to the constitutional order (Ngcobo, 2016):

> We cannot save our constitutional democracy unless we create at the same time a nation of people committed to this form of government and willing to stand up to save it. Our Constitution created it. Saving it is up to us. We must remember that the sustainability of our constitutional democracy does not only depend on the rules and procedures that we have adopted in the Constitution, but it crucially depends on the way we use the opportunities that our democracy provides.

It remains to be seen whether the 'burning platform' of the confluence of negative events that have gripped South Africa will serve as a spur for all sectors to work together to realise the lofty ideals enshrined in its constitution. There have been pitfalls galore during the two-and-half decades of democracy. Yet there has also been commendable progress. From the description above, on the path of democratic consolidation that South Africa has experienced, it is quite clear that the building blocks are there in the country's institutions, nascent democratic culture, citizen activism and the very constitutional ideals to which the majority of citizens pay allegiance.

Section Four

Findings and Recommendations on the Democratic Transition and Consolidation Process

DEMOCRATIC TRANSITION AND CONSOLIDATION: CAN IT EVER BE COMPLETE/SUCCESSFUL?

This section on the findings of the research is framed around the major themes that were used to analyse the state of democratic transition and consolidation in the selected case studies. In all of the cases analysed, the results suggest that the state of democratisation can be better contextualised in a continuum: experiences within each country are mercurial, with gains and losses registered unevenly in the various thematic areas that were examined. No transitional process can be said to be fully complete and satisfactory on both procedural as well as substantive (structural/socio-economic) benchmarks of democracy. Based on the criteria employed in this study, a transitional period can be characterised as a fluid process. Generally, it seems that either one or both of the democratic processes (transition and consolidation) in these countries variously fall short of the required thresholds.

For instance, despite some inadequacies, India would score very high on procedural forms of democracy in comparison to Mozambique and Algeria but would not be so high on the socio-economic front, especially taking into account its own national question. While failure to meet the procedural aspects of democracy is often ascribable to the choices made by political actors when they assume power, deeper structural conditions nationally and globally – which are beyond the control of political leadership – tend to reinforce socio-economic conditions that constrain the possibilities for democratisation. On closer scrutiny, democratic transitions, when measured against both procedural and substantive thresholds, manifest contradictions both

in achievements and failures. However, using a clear criterion, it is possible to combine both procedural and substantive dimensions in order to determine whether a particular democratic transition was complete and successful or not, and whether it is consolidating or not. It is possible as well, based on the model adopted in this study, to determine if a democracy is suffering reversals.

In reflecting on the democratic trajectory of the case studies, and South Africa, this study explicitly employed and combined both procedural and substantive (socio-economic dimensions) notions of democracy (refer to Section One). The report employs an expansive theoretical lens to interrogate the democratic character of the cases examined, but it is also grounded in context. This approach is useful in two ways. Firstly, the liberal democratic system of governance is the general benchmark used to gauge the democratic character of modern nation-states since it is objectively measurable. Secondly, while the substantive understanding of democracy remains credible and compelling as a conceptual instrument, the approach preferred in this study merges both perspectives, leveraging the explanatory value of such an integrated model. The following are the indices that guided our analysis, and therefore become the themes through which our findings on South Africa's democratic trajectory are organised.

State institutions

Most of the literature that this study draws on converges on the indispensability of the state as the basis for political order. It is through the analysis of the state and its institutions that a realistic assessment of the democratic credentials of a society can be established. In most cases the colonial experience and its impact, forms of liberation ideology, and the nature of the transition from the authoritarian colonial state, impinge on state formation processes. For its part, the type of ideology selected shapes the political system that states embrace.

Post-colonial states also tend to evince a path dependency syndrome. Most societies that attained liberation primarily through the barrel of the gun tend to have some aspects of a strong military culture with disproportionate influence on the ruling party itself.

Algeria and Mozambique typify this case. In the section on case studies, an attempt was made to contextualise the nature of these military struggles also in the context of the Cold War. Invariably, the army becomes central to the life of the liberation movement, with the latter often modelled on the command structure of the army. At the same time, not all liberation movements with armed wings are subordinated to them. The ANC formed its military wing, Umkhonto weSizwe, in 1961, and suspended armed struggle as one of the pre-conditions to negotiations for a democratic future in 1990. At issue seems to be the nature of pre-transition dynamics within political parties in Africa, which in some cases resulted in 'military take-over'. Unfortunately, as the case of Algeria shows, a military presence in a country's political landscape usually toxifies the ground in which the seeds of popular democracy should germinate. South Africa, still led by a former liberation party, has never been encumbered by military interference either within the party itself or in government. This, in part, reflects the reality that the armed struggle was a necessary but not primary form of struggle. In the ANC's own conceptualisation, it was but one of the four pillars – the three others being mass mobilisation, underground organisation and international solidarity work.

In recognising the post-apartheid stability that has been achieved in South Africa, Albie Sachs[40] articulates the disruptive role that a politicised army can play in destabilising democracy:

> In the case of South Africa, we had a powerful white army, we had Umkhonto, the Transkei (and other 'homeland') Defence Forces; we had the armed formations in KwaZulu-Natal, and we also had PAC formations. I could not see these being amalgamated in any way. I did not know how we were going to overcome that issue… And it is not fair because [this has been achieved and] they have done wonderful peacekeeping in different parts of the continent, for which they do not get nearly enough credit. They have been outstanding. But I am glad that they are not a powerful army, because once you grab the army, then you can take over the state.

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40 Albie Sachs, interviewed on 26 August 2019.

Until now, the army has played a minimal role in the body politic. This is a major South African achievement.

South Africa under the ANC government seems to have been inoculated from a variety of military interferences such as those that affected Algeria and Mozambique. Besides the unique history of the liberation struggle, this was achieved because South Africa's system of democracy is a product of a collective political imagination. Popular state legitimation was therefore built into the constitution, precluding any social force from challenging the authority of the state outside its democratic remit. This is one of the many outcomes of a strong constitution as alluded to in the South Africa section of the report. Given that the main liberation armed forces conceded to a negotiated settlement of the political impasse before the 1994 elections, the threat of organised political violence stemming from the history of liberation politics is virtually non-existent. This also means that South Africa is socialised into a political culture which pivots on the practice of civic politics, civilian leadership, negotiations and electoral politics as the platform to express political will.

In comparison to India (during various phases of its post-colonial evolution), Algeria and Mozambique, the South African state widely enjoys political legitimacy, which should stand it in good stead going forward. Political legitimacy, invariably steeped in all-inclusive processes (such as elections, constitutionalism and relative non-sectarianism) that culminate in constitutional consensus, have turned out to be the cornerstone of stable and enduring democratic regimes. Both Algeria and Mozambique have failed to build national concensus as a precondition for a successful transition process, and they ended up threatened by violent internal fragmentation. Algeria was subjected to the dictates of the army, while Mozambique was subjected to ideological homogenisation by FRELIMO, which led to the creation of a 'party-state'. What should be emphasised is that, despite earlier efforts at narrow nationalist resistance among sections of the Afrikaner and some African leaders, South Africa emerged from the dissolution of the authoritarian apartheid regime a largely united nation-state to which the overwhelming majority paid allegiance. This was as a result

of the multi-party negotiated settlement that recognised and afforded space to all the political interlocutors, which, consequently rendered inconceivable any grounds of questioning the legitimate foundations of the new dispensation.

As argued in Section One, scholars such as Kurki (2010: 363) argue that liberal democracy entails '[the promotion of] electoral processes and institutionalisation of rule of law, freedoms of expression, press and association', all of which were missing in the first two decades in both Algeria and Mozambique. For South Africa, the following are the political arrangements that characterised the post-colonial democratic system:

- a functioning parliamentary system with election processes that are considered to be procedurally and substantially free and fair;
- a sense of constitutionalism and rule of law, supported by institutions that buttress democracy (including the Constitutional Court and Chapter 9 institutions such as the Human Rights Commission, the Public Protector and the Gender Commission);
- mechanisms of accountability, such as Open Democracy Act, which enshrine the right to public information, force government to be more transparent and help to expose corruption among public officials;
- a professional civil service at least formally functioning on the basis of constitutional values, including impartiality, dedication to service delivery and fiscal accountability; and
- formal and informal mechanisms and platforms for citizen participation, including public hearings of parliamentary committees and public participation in public policy processes, as well as an assertive civil society.

It is in this context that Mamphela Ramphele argues that 'the transition was successful politically in the form of the political settlement that is embodied in the constitution'.[41] Similarly, Ntsaluba boldly asserts: 'I

41 Mamphela Ramphele, activist, intellectual and politician, interviewed on 11

am unapologetic about the transition; it was very successful'.[42] This is especially important when one considers the trade-offs that had to be made during negotiations, appreciating that neither the liberation movement nor the apartheid system had militarily triumphed over the other.

The Indian democratic transition, which provides instructive lessons for South Africa, was an elite-driven project, which compromised the structural and substantive dimensions of democracy. In other words, while India has built a national democratic culture underpinned by credible state institutions, the subliminal reluctance of the founding elites to emphasise national unity and social transformation compromised India's democratic content in its early stages. Yet the adoption of a democratic constitution in 1947 rooted norms of democratic culture in the national psyche of Indian society. But because the masses felt left behind in the democratisation process, different varieties of toxic nationalism became fertile ground for political mobilisation, which has played out at various levels of intensity since independence. South Africa can learn a lot from this Indian experience in terms of the importance of prioritising national unity in diversity, social transformation and developing a democracy that cares.

LIBERATION PARTY IN POWER AND STATE INSTITUTIONS

The post-apartheid political landscape has seen the ANC winning democratic, free and fair elections six times at national level in the period between 1994 and 2019, though with declining majorities since 2004. The liberation parties in both Algeria and Mozambique have remained in power since their independence, but under conditions that were bereft of pluralistic politics. Like India, South Africa's procedural democratisation processes have fared well in terms of political legitimacy, trust, tolerance and reflexive commitment to the electoral platforms to express political will.

June 2019.
42 Ayanda Ntsaluba, former Director General of DIRCO, and anti-apartheid activist, interviewed on 4 June 2019.

The ANC witnessed internal dissension, discord and fractional-isation as a result of party dynamics described above. One consequence of this has been the emergence of splinter parties that seek to appropriate the ANC's liberation mantra. The dynamics within the ANC have also impacted negatively on the affairs of the state over which the ANC presides as the governing party. When ruling parties are torn by internal schisms, this impacts on the stability of the state. Despite these divisions, the ruling party has stayed in power partly because of efforts to improve the quality of life of the majority, and also because of the liberation legacy and the lack of a strong alternative.

With these circumstances – a floundering ruling party, and the absence of a strong alternative – two fundamental questions begin to suggest themselves. How long will the liberation party, the ANC, remain in power if it continues to self-haemorrhage? And what kind of state will emerge if the liberation party is voted out of power? India provides a lesson. Between 1977 and 1999, India was characterised by different forms of coalition governments. At one level, this was a confirmation of the robustness of institutions and processes that undergird democracy. However, it cannot be ignored that coalitions by their very nature are unstable arrangements. In India, the coalitions period provided fertile ground for the rise to national government of a religious fundamentalist party that condones violence against other religions. One of MISTRA's major research projects, the Indlulamithi Scenarios 2030 (2019), identifies and describes three different potential trajectories for South Africa up to 2030. To extrapolate, one of these possibilities is fractious politics in which small parties – some of them regionalist, sectarian and populist – ascend to the status of 'king-makers', forcing the liberation party to resort to eclectic and populist postures to remain in office. The lesson that India provides is that, if this scenario comes to pass, narrow nationalisms may become cultivated and sharpened in South Africa's polity.

Presently, key state institutions in South Africa – including law enforcement and prosecution agencies, state-owned enterprises and government departments – are struggling to recover from the period of state capture described above. In that period, individuals and groups used state institutions for self-enrichment, against perceived rivals,

or to defend themselves from exposure or possible prosecution – or indeed a combination of these intentions. Individuals and factions within the governing party thus seek as much as possible to corral state institutions to serve their narrow interests, through a vulgar application of so-called 'cadre deployment'. The renewal process to which the Ramaphosa administration has committed itself will not be quick or linear, nor is it guaranteed of success.

Separation of powers

Consistent with the inherent logic of representative democracy, both the South African and Indian systems of governance are based on a constitutional machinery that delineates the separation of powers, clearly vesting authority in three branches of government: the executive, the legislature and the judiciary. However, no system can ever be perfect. For example, India has experienced executive overreach on several occasions. As captured in the case study, India's Supreme Court has at times resorted to 'judicial activism', in its understanding, to curb executive overreach or inaction. One of the criticisms levelled at South Africa's doctrine of the separation of power concerns the powers of the president to have a final say in the appointment of Constitutional Court judges. This is seen as stacking the cards in favour of the one branch of power, the executive. There have also been instances where members of the executive have openly criticised decisions made by the judiciary. This can also be interpreted as overreach by the executive.

Yet, at the same time, the authority vested in the Constitutional Court to act as ultimate arbiter on any issue, including government and legislative matters, is seen by some as too much power in the hands of unelected individuals. On the other hand, the fact that the Judicial Services Commission, which selects judges, includes parliamentarians and that a judge can be impeached by parliament points to the power that parliament has in relation to the judiciary. In other words, as argued earlier, what South Africa has is a circular system of checks and balances that the three arms of government exercise over one another.

Although portrayed as an authoritarian state, the Algerian political elite, as the case study found, woke up to the imperative of putting

its strategic natural endowments, especially oil and gas deposits, to the service of Algerians. On the other hand, in 2010, Mozambique discovered huge gas deposits in its northern provinces. Given the history of 'the curse of resources' (wars, corruption, venality over access to natural resources), alarm bells are already starting to ring. Mozambique has already witnessed the growing spectre of corruption, poor service delivery, trickle-down economic policies that enrich the elites and localised conflicts over resources. Some of these factors are a result of the natural gas discoveries, as was discussed in the case study. The 2014–2019 debt scandal was as a result of gas proceeds being 'mortgaged' in advance.

South Africa is also gifted with massive natural endowments. The proceeds generated from these can be utilised to ensure socio-economic benefits to the population as in Algeria; but it would need to shun the corruption associated with endowment proceeds, as evident during the debt scandal in Mozambique.

Civil liberties

The existence of civil liberties is contingent on the type of a political system in place, whether democratic or authoritarian. Governments with no democratic systems are unlikely to respect civil liberties. India and South Africa were founded on democratic systems of government, which include a constitution, 'watchdog' institutions and pluralist elections. Civil liberties are constitutionally enshrined in these two countries, unlike in Mozambique and Algeria where, for the most part, one-party systems of government were followed. In the case of Mozambique, Sumich (2013: 1) argues that '… the leadership of the ruling Frelimo Party attempted to occupy a position above society where it could determine the practices and behaviours that made one a citizen and, conversely, those that made one an "alien" or an enemy'. The dangers of recognising civil liberties in constitutions but not practice remain very high in post-colonial states. What the Algeria and Mozambique cases show is that, despite the recognition of freedoms and rights in constitutions, many citizens may still be subjected to massive abuse by the state's coercive forces, especially around election times.

Thus, despite its liberal system of democracy, South Africa is not immune to criticisms about civil rights deficiencies. As shown elsewhere, India, with a strong constitution, and a strong base of liberal democracy, has used heavy-handed tactics to address religious, ethnic and political problems in some instances such as in the state of Kashmir and other regions. In the process, it curtails civil liberties and, according to the case study, has turned the region of Kashmir into 'the world's most militarised zone'. Of note also is that South Africa has been bruised by incidents of police brutality against citizens and manifestations of xenophobia, which trample on civil liberties for foreign nationals, mostly of African origin. But it is also important to recognise that, by and large, civil liberties have been respected in South Africa and, where inadequacies are noted, protagonists have resorted to the courts and other constitutional agencies for assistance. This keeps alive hope for South Africa's democratic resilience.

Civil society

The period 2009–2018 in South Africa's post-apartheid history is popularly referred to as the young democracy's 'lost decade' (*The Economist*, 2018b). This characterisation and its attendant 'state capture' discourse lead us to ask whether the democratic gains that had been achieved were reversed. If the democratisation process entails the construction of political, social and economic institutions to underpin a constitutional state, it follows that destruction of the said institutions reverses the construction process. Even before the Zondo Commission on State Capture finalises its findings, it is becoming evident that a reversal process in this context had taken place. The histories of many post-colonial societies are littered with attempts by certain groups to use access to state resources for their own personal gain. It would seem that South Africa failed to avoid these 'pitfalls of national consciousness' (to borrow from Frantz Fanon).

But South African civil society has been a model of active citizenry in post-colonial Africa. After the 'honeymoon' of the first few years, a large part of the post-colonial period was rocked by incessant civic activism around a variety of demands. The fact that a coalition made

up of opposition parties, civil society organisations and sections of the media was able to come together to campaign against state capture under the banner of 'Save South Africa' speaks to the relative strength of civil society in addition to other institutions such as the judiciary. In this regard, civil society in the form of human rights organisations, religious groups, labour unions and student bodies, along with the media, have kept faith in South Africa's democracy. This once again provides hope for the future of South Africa's popular democracy.

Linked to civil society activism, and its value to processes of democratisation, is the role played by decentralised processes of participation. The Mozambican and Algerian case studies brought to light the dangers of untrammelled centralised planning, which in most cases shuts out ordinary citizens from partaking in their governance. In South Africa, the people's agency has been portrayed in many instances. Community forums are active, political parties are relatively vibrant, religious formations have not limited themselves only to matters of religion, and students in institutions of higher learning have broadened their struggles beyond demands confined to tertiary education. All this gyrates around a progressive constitution that has been used to achieve gains in the socio-economic arena – advancing South Africa's democracy beyond just the procedural realm.

Equally visible is the feminist movement that has brought to everyone's consciousness the repugnant gender-based violence that does not seem to be abating. While activists from older generations have been quite active in this struggle, gender activism can be said to be at its height among students, the youth and workers. South Africa has taken a pre-eminent position in advancing the constitutional position of women and the LGBTQ community.

Substantive vs procedural forms of democracy and socio-economic transformation

Public reflections on the notion of democracy in South Africa are largely positive because it has successfully held competitive elections within a constitutional state. However, a much more vigorous and complex discussion on the configurations of democracy is required

to understand how poor citizens navigate the contours of the system. South Africa's post-colonial history is replete with examples of ordinary citizens rising up in social protest against poor governance. In the presence of free, fair and credible elections, legitimate leaders and a functional judiciary, social unrest in the country can only be understood and addressed through dealing with the socio-economic question and building genuine platforms of citizen engagement. While all the generations of human rights are enshrined in South Africa's constitution, there are still outstanding questions about socio-economic rights as well as matters pertaining to gender and the environment.

As elaborated earlier, South Africa is still caught up in the structural constraints of inequality reflecting the historical overlap between race and class and gender. One of the areas (both symbolic and real) in which the post-colonial state has as yet not made good on its promises is to redress disparity in land ownership. This has become a lightning rod of renewed radical mobilisation, with profound appeal especially among women, rural communities, farm workers, communities living under traditional monarchs, urban dwellers in informal settlements and many other stakeholders. But, as with many issues of the political economy, the land question can also be opportunistically appropriated by political and economic elites to serve their own material and political interests.

Education has proved in most settings to be a social liberator. Access to quality basic education and the opening of tertiary opportunities (including artisanal skills) has helped lift individuals and families from poverty. The Mozambique case study reveals a lack of access to education facilities for many children, especially girl children, whose chances of attaining a university education are placed at less than 1 per cent (USAID in Blessman, 2017). In contrast, access to basic education in South Africa has massively improved compared to the apartheid period. However, the dropout rate between first grade and matriculation is still too high; and there are concerns about the extent to which school education prepares learners for the tertiary level and for the world of work.

Attached to manifestations of poverty and inequality are the scourges of racism, patriarchy that includes gender-based violence as

well as other social ills. Added to this are instances of violence against immigrants – especially from the rest of the African continent – which in large measure reflects competition for meagre resources among those economically marginalised. Throughout, this study has contended that the socio-economic structure of a post-colonial society conditions the possibilities for a consolidated democratic system – or the inverse in that such consolidation can be undermined if there are minimal social benefits that attach to the act of political liberation.

Overall, in all three case studies, and in South Africa particularly, unrest against socio-economic difficulties underscores the gravity of impoverishment and the natural human response to this reality. Peter Alexander (2010) has labelled it the 'rebellion of the poor'. Further, the extent of poverty and inequality in South African society is steadily lending itself to a shift of politics towards the left. This is an objective outcome of a situation in which, even with the progress made in providing basic social services, the majority of the population are excluded from earning a decent income or owning meaningful assets. Yet, situations such as these can be exploited by demagogues who exploit base emotions in a toxic mix of pseudo-radical and ultra-nationalistic rhetoric.

CONCLUSION: IS SOUTH AFRICA'S DEMOCRATIC TRAJECTORY COMPARABLE AND/OR EXCEPTIONAL?

The major objective of this study was to examine – using case studies, literature review and interviews – whether or not South Africa's post-colonial democratic trajectory is exceptional and/or comparable to the post-independence experiences of the selected countries. The framework used to examine the depth and breadth of democracy in the chosen case studies involved looking at democracy at two levels. The first level is the democratic transition and formal political rights, which entail procedural aspects of governance. As elucidated in Section One, these would include notions of free, fair and regular elections; transparent and accountable state institutions; separation of powers; internal party democracy; and respect for civil liberties. The second

level concerned the process of democratic consolidation, where, in addition to the procedural dimensions of democracy, the various states' commitments to improving socio-economic indicators of inequality, poverty and unemployment, as well as the presence or otherwise of a vibrant civil society, were examined.

After synthesising the data collected for and from the case studies, as well as literature on South Africa, it became clear that the thesis of South Africa's exceptionalism cannot be wholly sustained. Of course, there are instances where selected themes (context of transition; forms of liberation; character of transition; state of the state and institutions; separation of powers; civil liberties; and civil society) indicate that South Africa is performing better than its peers, despite being a latecomer into the democratic game. One example is South Africa's ability to keep the military out of the political realm. This is despite the fact that, like Algeria and Mozambique, the country had, to some extent, a militarised liberation process, which would have presupposed a symbiotic relationship between the new ruling elite and the new military elite. India has also been immune to military interference since independence.

The other clear exception between South Africa and its African peers is in the civil society realm. In contrast to Algeria and Mozambique, civil society in South Africa is vibrant and largely independent from the governing party. Unlike in Algeria, where the state and the military have gone to the extent of forming their civic organisations, and in Mozambique, where civil society is overly dependent on donor and state funding, civil society in South Africa is variegated and has shown the capacity to stand as a bulwark against the abuse of state power. This is not exceptional to South Africa. In India, civil society is also strong and vibrant, and examples include the feminist, human rights and LGBTQ movements. In both countries, there is also the presence of relatively strong indigenous language media, which means information can be accessed by citizens from a wide range of sources.

In terms of the strength of state institutions that are supposed to fend off the problems of patronage, corruption and rentier politics, the South African experience is not different from that of Algeria, Mozambique and India. Combined with weaknesses of state capacity,

political power is being used for individual advancement, affecting the quality of socio-economic services that are extended to citizens.

Furthermore, on the more expansive conception of structural dimensions of democracy, South Africa has fared no better than any of the case studies. While the last twenty-five years of democratic transition have correspondingly seen progressive policies intended to address apartheid's legacy, and considerable change has happened, the historic structural inequalities and binding constraints are still stubbornly in place. Racial inequalities are still deeply entrenched, fuelling and sustaining social hostilities and class antagonisms. Land reform is still an issue, as are a host of other key transformational challenges. These include the fact that: property relations are still largely racially defined; high-end technical, managerial and administrative skills are still the monopoly of the historically privileged population; corruption is undermining measures put in place to fight poverty; a huge backlash against social change in some quarters motivated by vested interests masquerading as economic orthodoxy is stridently asserting itself; and lastly, the vicissitude of the neo-liberal global economic environment constrains the possibilities for structural change in South Africa.

With these few examples noted, it is important to acknowledge that, in depth and breadth, democratic consolidation in the studied countries has been uneven in comparative terms, but inadequate in all instances. South Africa may be characterised as the more advanced in democratic consolidation in the cases that were examined. Even though its democratic trajectory in terms of consolidation may be moving forward in terms of our definition, there still remains the possibility of reversal and regress if no concerted effort is made to address the country's challenges. These include state capture, social inequality, poverty and structural unemployment, against which should be concerted efforts to construct an all-inclusive and meaningful citizenship, which in turn is indispensable to underwriting popular democracy. The question remains whether liberal democracy will serve as a corrective mechanism against malfeasance and an organising framework towards the attainment of lofty socio-economic ideals.

List of Interviewees

Name	Designation	Date of interview
Arceline, Yolanda	Academic and FRELIMO member	5 June 2019
Butalia, Urvashi	Feminist publisher	Via email – 15–30 June 2019
Friedman, Steven	Academic and Researcher	28 August 2019
Geetha, V	Historian and feminist scholar	Via email – 15–30 June 2019
Gilder, Barry	Intellectual and anti-apartheid activist	31 July 2019
Hansen, Thomas Blom	Anthropologist	Via email – 15–30 June 2019
Menon, Nivedita	Feminist and political scientist	Via email – 15–30 June 2019
Monteiro, Oscar	Academic, former Mozambican cabinet minister and FRELIMO Member	30 April 2019
Netshitenzhe, Joel	Intellectual and ANC NEC Member	19 September 2019

Name	Designation	Date of interview
Ntsaluba, Ayanda	Former DG of DIRCO, and anti-apartheid activist	04 June 2019
Prakash, Gyan	History Professor, Princeton University	Via email – 15–30 June 2019
Ramphele, Mamphela	Intellectual and politician	11 June 2019
Rangarajan, Mahesh	Historian and media person	Via email – 15–30 June 2019
Sachs, Albie	Retired Constitutional Court Judge and intellectual	26 August 2019
Sundar, Nandini	Anthropologist and civil rights activist	Via email – 15–30 June 2019
Varadarajan, Siddharth	Journalist	Via email – 15–30 June 2019
Yahir, H. Zoubir	Professor of International Studies and Director of Research in Geopolitics at Kedge Business School	Interview via email

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Understanding South Africa's Democratic Trajectory: A comparative analysis of post-colonial societies is the product of a research project undertaken by the Mapungubwe Institute for Strategic Reflection (MISTRA) on behalf of the Open Society Foundation for South Africa (OSF-SA).

The research examines three cases studies – Mozambique, Algeria and India – in order to assess whether South Africa's current democratic trajectory is exceptional or comparable to other post-colonial experiences. The report seeks to identify features that characterise or have shaped the democratic trajectories of the selected cases, and to discuss the implications of these for constitutional democracy in South Africa.

The insights are aimed at provoking discourse on South Africa's postcolonial path and transformation.