

CONFERENCE

FOR DEMOCRATIC

RENEWAL AND

CHANGE

DISCUSSION
DOCUMENT

JUNE 2022 | JOHANNESBURG



DEFENDING SOUTH AFRICA'S CONSTITUTIONAL DEMOCRACY

Envision a new politics that will enable people's power!

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CONSTITUTIONAL DEMOCRACY**

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A

A woman with her hair in braids is speaking at a wooden podium. She is gesturing with both hands raised. In front of her are two microphones with blue foam covers, one of which has a white 'e' logo. Behind her is a large red sign with the words 'UNITED' and 'ACTION' in black capital letters. The background is slightly blurred, showing some greenery.

INTRODUCTION

1. In June 2022, the **Defend Our Democracy Campaign** will host a national **Conference for Democratic Renewal and Change**. Representatives of various sectors of society such as labour, civil society, business, faith-based communities, academia, media, sporting and cultural groups, social and development organisations, women and youth formations, and the legal fraternity, will be invited to attend. The Conference intends to bring together constitutional democrats in South Africa.

2. The **Conference for Democratic Renewal and Change** will:

- Identify the political, socio-economic and security challenges and threats facing our country, and search for solutions in this regard;
- Develop a framework for a national campaign, driven by an active citizenry and based on shared perspectives, to safeguard, renew and change our constitutional democracy;
- Examine and learn from examples of people and organisations working to strengthen our democracy and its democratic institutions;
- Consider relevant and appropriate changes that should be made to our Constitution, legal and regulatory framework, and governance and electoral systems, to revitalise our democracy;
- Explore ways of making our public service developmental, people-centred, efficient and effective;

- Address issues of economic justice, climate change and the realisation of socio-economic rights; and

- Design a nationwide campaign to combat corruption and state capture and call for those involved, irrespective of their status, to face the consequences of their unlawful actions.

3. The **Conference for Democratic Renewal and Change** will envision a new politics, where the conduct, ethics, integrity and values of public representatives are beyond reproach; where they are truly accountable to the people, and which enables the expression of people's power in a vibrant and enduring democracy.

4. This discussion paper aims at stimulating countrywide discussions on the abovementioned issues. It anticipates that through this process of prior engagement, representatives attending the **Conference for Democratic Renewal and Change** will be better informed and thoroughly prepared for participation at the event, and to articulate the views of their respective organisations and constituencies.

5. On 27 April 1994, all South Africans, irrespective of race, ethnicity, gender, religion, culture and language voted in our first national democratic elections. This historic moment marked a decisive break from colonialism, apartheid, national oppression, and under-development, which consigned the majority of South Africans, particularly Africans, to a life of racial servitude, institutionalised discrimination, inequality and poverty. This was a victory for the liberation movements, the multitude of civil society groups that opposed apartheid, and the oppressed people of our country.

B



**CONSTITUTIONAL
DEMOCRACY**

6. In 1996, our democratically elected Parliament carried the hopes and aspirations of our people for freedom and democracy by adopting the *Constitution of the Republic of South Africa* (1996), enshrining a Bill of Rights and responsibilities governing the conduct of the state and its citizens. Parliament began the process of removing racially offensive and discriminatory laws from the statute book of the land. Our *Constitution* cemented an irreversible process towards the creation of a united, democratic, non-racial and non-sexist future. It envisioned the progressive realisation of the rights contained in the Bill of Rights, ushering in a future based on democratic values, social justice, fundamental human rights and eradicating poverty and inequality.

7. The advent of democratic governance has registered important achievements such as the separation of the three arms of state, namely, the Judiciary, the Executive and the Legislature; regular holding of free and fair elections across the three spheres of government; introduction of a massive social wage; expansion of the economy, and opening access to educational and health services. In this respect, the post-apartheid political dispensation is markedly different from previous polities.

8. Our *Constitution* enshrines the principles of freedom, equality, justice and national reconciliation. It promotes human rights and human dignity. It advocates the rule of law, socio-economic rights, gender equality and the transformation of our social order. These principles make our *Constitution* a towering achievement of all the peoples of South Africa. It enables ordinary South Africans to vote in free and fair elections and to full participation in a democratic society. It allows all of us to enjoy freedom of association, expression and movement, an independent media and a widely trusted judiciary.

9. These positive developments have been contaminated by negative conduct such as corruption, state capture, rent-seeking and other forms of unethical behaviour by many leaders, public servants and businesspeople, as well as through a symbiotic and parasitical relationship between government and business. Trust in democratic institutions, state organs, the media and business is at an all-time low. We have witnessed the hostile activities of anti-democratic forces, expressions of anti-constitutionalism and constitutional delinquency as was evident during the July 2021 failed insurrection. The efforts to destabilise our country are driven by the architects and beneficiaries of state capture and corruption in pursuit of their on-going desire to control the levers of power and to avoid the long arm of the law.

10. Disturbingly, some of the fundamental principles underpinning our *Constitution* - a binding source of national unity and national pride - are now being questioned by some leaders and groupings in society. Its usefulness in bringing about meaningful changes to the lives of ordinary people, particularly the poor, is under attack, if not threatened completely.

11. More worryingly, former President Jacob Zuma, once described in a Constitutional Court judgement as embodying the 'constitutional being' of the country, defied an order of the Constitutional Court instructing him to continue providing witness testimony at the Commission of Inquiry into State Capture. This defiance violates the law and assails the *Constitution*. The former President and his cohorts, frustrated by the impeccable conduct of an independent judiciary, have launched malicious attacks on the judiciary and on the Constitutional Court, a cornerstone of the *Constitution*. Zuma has questioned the findings against him contained in Volume 3 of the Report of the Zondo Commission of Inquiry into State Capture. The conduct of the former President embodies a political culture fundamentally antithetical to democracy, as depicted in the cult of personality, rule by factional dictate, nepotism and totalitarianism within a securitised state.



QUESTIONS FOR DISCUSSION

Do you support the South African *Constitution*? Why?

Should South Africa remain a constitutional democracy? Why?

Do you think the *Constitution* should be amended? If so, which parts?

What should citizens do if politicians violate the *Constitution*, disregard the rule of law and disrespect the Courts?

C



THREATS

TO OUR

CONSTITUTIONAL

DEMOCRACY

12. Over time we have seen both a global and national decline in trust between citizens and political parties, regardless of their ideological persuasion. Last year's municipal elections in our country, which had the lowest voter turnout since the dawn of democracy, bears testimony to this. People and communities are losing faith in political parties and the political system associated with democracy. Many believe that we are witnessing the emergence of a 'choice-less democracy'.

13. Our democracy has become fragile. In many instances, people live 'outside' the *Constitution*. Their rights have been commodified. Our proud non-racial and anti-racist traditions are being replaced by the emergence of right-wing, conservative and populist movements and sentiments. Our progressive and universal perspectives are losing their potency and appeal in people's imagination. Some of the rich and powerful in society are abusing our democracy and judicial system by contesting every Court judgement that is not in their favour to avoid the inevitable hour of public accountability.

14. Our Parliament has been gutted by fire. The Constitutional Court has been damaged in an attack by an individual for reasons that remain unknown. Several government buildings, public infrastructure and higher educational facilities have been severely damaged or destroyed in arson and other violent attacks.

15. In July 2021, there was an attempted insurrection allegedly by supporters of former President Jacob Zuma that damaged significant economic and public infrastructure, disrupted economic activity and instilled fear and panic in the civilian population, resulting in acts of vigilantism, mob violence and the loss of over 340 lives. It cost the country an estimated R50 billion. The police and intelligence services were caught off guard and failed hopelessly to protect citizens. Eventually, President Cyril Ramaphosa had to deploy the South African National Defence Force to restore a semblance of stability and social order. The *Report of the Expert Panel on July 2021 Unrest* points to the failure of the Cabinet and the security cluster to anticipate and prevent the wanton destruction of public and private property and infrastructure, and the tragic loss of human lives.

16. For over a decade parliamentary oversight and political accountability of the Executive, including over the public service and state-owned entities (SOEs), have been seriously undermined. At times Parliamentary proceedings resemble an embarrassing political circus that hardly addresses the concerns and plight of South Africans.

17. Widespread corruption and the capture of the state by some politicians, civil servants and private businesses for the illegal accumulation of wealth through rent-seeking has been confirmed by the Zondo Commission of Inquiry into State Capture in three voluminous reports released to date by the Commission. It is patently clear that SOEs such as Transnet, SAA and Denel, and government departments such as Correctional Services, acted as cash-cows for some corrupt politicians, public servants and businesses. Implicitly, the reports reveal the dangers in so many instances of inappropriate 'deployment of cadres' in government institutions, who do not have the requisite skills and ethical values needed for good governance. The cumulative effect of this is the reality of broken institutions, resulting in large scale service delivery failures.

18. The ANC, once a tributary of many people's hopes and aspirations, is repeatedly being implicated in grand corruption scandals, through the malfeasance of individuals within its ranks. It now stands as a compromised organisation with a section of its leadership facing serious corruption charges. Its ethical and moral stature is fast diminishing. The nation's trust in the ANC has dwindled. Other parties in power through coalitions or some other political arrangements face similar scandals and allegations.

19. Corruption and state capture are not confined to the national government. It is equally rife within provincial governments and local authorities, and corrupt businesspeople act with impunity countrywide. Most municipalities are virtually bankrupt, unable to render basic services effectively to residents, fail to maintain critical public infrastructure and turn a blind eye to corruption by local Councillors, municipal officials and corrupt businesses people. Essential services such as the provision of water and sanitation

are disrupted in communities throughout the country, particularly in rural areas, resulting in miserable lives for the residents and especially the poor. In several cases, municipalities are completely dysfunctional, and residents have instituted legal challenges against these municipalities to take over some of their constitutional functions. In some instances, the Courts have approved such initiatives by citizens as in Koster, for example.

20. Signs of the government's increasing inability to protect its citizens have caused anxiety and insecurity among the people. Violent crime, gender-based violence, xenophobic attacks and murder are on the increase. The factionalism, in-fighting and sheer ineffectiveness of the South African Police Services, the State Security Agency (intelligence services) and the National Prosecuting Authority, and the progressive hollowing out of key institutions involved in the fight against corruption and state capture over the past ten years, have created opportunities for violent criminals, corrupt businesses and individuals, and those wanting to destabilise our democracy to act with impunity.

21. The threats to the *Constitution* and to our constitutional democracy go beyond that posed by any individual. The July 2021 attempted insurrection, the burning of Parliament, the verbal and violent attacks on the Constitutional Court and the Judiciary at large, and the growing incidence of criminality, looting, corruption and state capture point to the weakening of our constitutional order and democratic institutions. Those who have looted and plundered the state coffers are now seemingly intent on avoiding the consequences of their malfeasance and they have embarked on a well-resourced, deliberate and planned strategy to destroy our hard-won democracy and seize power.

22. This, coupled with the adverse impact of the COVID-19 pandemic and a struggling economy, has left millions of people demoralised and disillusioned with democracy. People's hopes for a better life have been disappointed and feed into a vicious cycle of pessimism with its attendant consequences for the wellbeing of our people. The restiveness in the population has grown as various institutions of governance have been tested to breaking point.

With the growing levels of unemployment, poverty, inequality and the rising cost of living our people are angry, frustrated and bitter. These were among the major factors contributing to low voter turnout during the 2021 local government elections.

23. The possibilities for a vibrant and democratic society are being squeezed. The promise of emancipatory politics characterised by self-empowerment, popular direct action and accountability is diminishing. There is utmost urgency to counteract the widely held belief that the social contract entered in 1994 is unravelling, and to reverse the downward spiral. The fundamental values contained in our *Constitution* provide the basis for renewing our politics as well as changing the direction our country is heading towards.

24. This is the time to devise ways to recover our core values and repurpose our politics. It is the time to revisit and re-imagine the future of our country. The key questions to examine are whether our democracy is on track to deliver the promise of a better life for all, and what kind of political system and culture is needed that will renew and change our democracy so that it works for all and truly places power in the hands of the people.



QUESTIONS FOR DISCUSSION

Is our constitutional democracy under threat?

Do you think regular, free and fair elections are important for democracy? Has an election had any positive impact on your personal or community life?

Beyond voting, what more must be done to ensure service delivery to people?

Is South Africa on the road to becoming a failing state?

Are any of the abovementioned features of a weakened and threatened democracy evident in your municipality and/or province?

Can you identify the perpetrators of corruption and state capture in your community? Do you have concrete evidence in this regard? Are you willing to expose them publicly?

D



**THE NEED TO
DEFEND OUR
DEMOCRACY**

25. The people of South Africa fought for and chose constitutional democracy as a bulwark against racism, discrimination, apartheid, exploitation and totalitarian rule. This people's democracy is being subverted by the purposeful undermining of good governance, the erosion of public accountability and the promotion of misrule. This shows how those who subvert it will want to govern our country, should they succeed. After centuries of struggle for freedom, equality and liberty, South Africa should not resemble an inept and corrupt state, like that of the apartheid era.

26. Our country has reached an inflection point. We have reached a pivotal moment. We must seize this historic moment and turn the tide to envisage a much better future. We can either slide to a failed state or rise to the occasion by regenerating, renewing and changing the way our country is led and governed. We must re-establish the link between the people and politics. Solidarity, human dignity and care for one another should be the overriding basis on which our new politics and values are conceived. Ours should be to look for signs of hope and act accordingly. We must find new ways of safeguarding and strengthening our democracy.

27. Our future as a democracy is only as secure as our refusal to tolerate the destabilisation of the state and our unyielding defence of our *Constitution*, the foundational pillar of our nation and the supreme law of the land. It is precisely for this reason that people should oppose the threats to our democracy and defend the abiding values enshrined in our *Constitution*.

28. We are a nation of resilient people who have overcome racism, discrimination and hardship. We have gone to war before to fight for freedom from the tyranny of colonialism and apartheid. Our legacy and heritage of struggle are not to be trifled with, let alone stolen. If for this reason alone, we will not hesitate to strive against the tyranny of a corrupt few, who seek to undo the gains of our liberation struggle.

29. Ordinarily, the normal defence of a democracy is its *Constitution*; a government that operates on the will of the people and respects the rule of law; a parliamentary system of effective oversight and accountability; an independent judiciary, and an independent media and civil society. If these are captured, a country is at risk of being governed by rogue elements, who will turn it into a corrupt oligarchy that serves the pockets of a few powerful individuals, families and factions, under the guise of a 'democracy'.

30. Ours is a call to action by all who live in South Africa to affirm our universally accepted and globally celebrated *Constitution* and to renew our country's commitment to a constitutional democracy. We, ordinary people from every political, racial, ethnic, cultural and class backgrounds, who are united under and loyal to our *Constitution*, must reclaim what has given us collective dignity, self-respect and our democratic rights and freedoms.

31. We have always understood that democracy and freedom require constant vigilance and active citizenry. The *Constitution* and constitutionalism provide us with a promise of a better life - a democratic social contract that is premised on accountability, a combination of formal politics and grassroots participation and an ethical leadership. Dedicated service and bias to the poor and the vulnerable in society is what is required to take our country forward. This also requires that we build an economy that is inclusive and beneficial for all South Africans, irrespective of their station in life.

32. We acknowledge some of the constructive efforts being made by President Cyril Ramaphosa's government to improve the system of governance. We welcome his repeated pronouncements that those who are implicated in corruption and state capture must be held accountable. We note with appreciation the efforts being made by the National Prosecuting Authority to strengthen its capability to combat crime, corruption and state capture. We remain hopeful that the recommendations of both the Zondo Commission of Inquiry into Allegations of State Capture and the *Report of the Expert Panel into the July 2021 Civil Unrest* will be implemented by the government. The recent pronouncements made by government to stimulate economic growth and to help the poor and unemployed in society are welcomed. However, what we need is less talk and more action. People long for firmer and more decisive action by the President and his administration.

33. At the same time, we are aware there is a determined pushback against efforts to clean the current administration, especially by those who are implicated in corruption and state capture. This is taking the form of wilful disregard of our *Constitution* and laws of the country. They will aim to discredit the Zondo Commission, legally challenge its Reports, disrupt the economy and damage and destroy public infrastructure to undermine our constitutional democracy, as has happened during the failed insurrection in July 2021. In short, they will not hesitate to destabilise our country to avoid going to jail.

34. Under these circumstances, the people are the only ones that can draw the line of defence against rogue elements that are bent on destroying our country in pursuit of their own nefarious interests.



QUESTIONS FOR DISCUSSION

How should communities respond to any such recurrence of the July 2021 attempted insurrection?

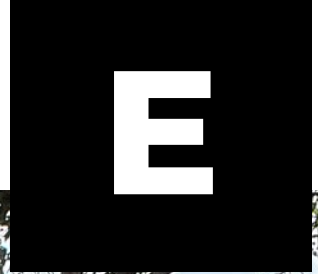
How can we stop the vandalism and destruction of public infrastructure such as schools, universities, libraries, clinics, cemeteries, traffic and streetlights etc?

How can you and/or your organisation contribute to defending our democracy?

What programmes, if any, are you engaged in which help to strengthen democracy in our country?

What impact is the ongoing threats to and persecution of whistle-blowers having on our democracy? How can whistle-blowers be better protected and safeguarded?

Can we conceptualise and popularise a mutual contract between every citizen and the state? How can we develop the notion of an active citizenry?



**WHAT SHOULD
BE DONE?**

35. The central questions are:

- What can citizens and civil society organisations do to defend and renew our democracy?
- What changes are necessary in government to ensure that democratic institutions are more resilient and durable? How can we ensure that state performance improves?
- Can we create a more conducive working environment for public servants who are committed to building state capacity and truly serving the public, thereby strengthening the capability of the democratic state?
- What changes are needed in our political system to enable better co-operation among political parties on issues that will enhance the wellbeing of citizens and improve the rendering of services to communities?
- How can we build peoples' power in our democracy?
- How can organisations in civil society and other organised formations go beyond their specific interests and activities, and contribute to renewing and changing our democracy?

36. We should mobilise a broad cross section of the leadership of the people of South Africa nationally, provincially and locally, and beyond party political interests, to take a public stand against the destabilisation of our country by corrupt and rogue elements, who have no respect for the *Constitution* and the rule of law in the country.

37. We should establish a broad united front of civil society, religious, business, labour, youth and women's organisations and progressive non-governmental organisations. Such a broad united front should place 'the people' at the centre of their

mass-based campaigns around the above-mentioned issues. Specific efforts should be made to engage and mobilise youth and women's organisations, particularly at local levels, to participate in the activities of the broad united front. The key principles that should underpin such a broad united front are commitment to the *Constitution* and constitutionalism; eradication of corruption and state capture; ethical leadership; accountability and transparency; an end to the practice of inappropriate cadre deployment, and community and grassroots participation.

38. We must demand that Members of Parliament, Members of Provincial Legislatures and Councillors conscientiously exercise their oversight functions over the President, Ministers, Premiers, MECs, Mayors and Members of Mayoral Committees across the three spheres of government; report regularly on their work in their constituencies, and be more responsive to community interests, needs and grievances. Simultaneously, Specialised Task Teams should be established nationally, provincially and locally to monitor government delivery systems and performance as well as to scrutinise the spending of public financial resources. We must insist on greater transparency from government and easier access to government information so that monitoring and meaningful participation by citizens are made easier.

39. We should develop cutting edge communications platforms to inform, educate and conscientise people about the struggle against corruption and state capture, as well as popular campaigns for the betterment of peoples' lives, and on successful measures aimed at improving service delivery by various levels of government. Simultaneously, we must call out fake news and manipulation of narratives by those intent upon seizing power illegally, who opportunistically exploit people's frustrations due to unemployment, poverty and inequality to sow chaos and mayhem in our country.

40. We must mobilise the private sector to join the fight against corruption and state capture; conduct their business on ethical principles; deploy their resources in a manner that will grow the economy and create jobs, particularly for young people; and share their skills, resources and capabilities to improve service delivery, especially within municipalities.

41. We should consider changing the electoral system from one based solely on the proportional or party-list system to either a hybrid model (mixture of party-list and constituency-based elections) or a fully-fledged constituency-based system, where MPs, MPLs and Councillors are accountable directly to constituencies and the public. The wall-to-wall proportional representation system in place at national and provincial levels may be reformed as per the recommendations of the majority in the Van Zyl Slabbert Commission Report on this matter. Furthermore, we should consider public regulation of eligibility for office bearer positions of political parties and candidature for membership of Parliament and other representative institutions. Also, there is the suggestion that the President of the Republic should be elected directly by the registered voters, and not be appointed by the majority party through a parliamentary vote of MPs.

42. We should consider amending the *Constitution* due to the ravages of state capture and the lack of accountability of irresponsible politicians. A new Chapter Nine Institution mandated to prevent, monitor, combat, investigate and prosecute serious corruption may be needed. The powers of the President are too extensive and should be revisited in accordance with the observations made by the former Deputy Chief Justice, Dikgang Moseneke. The Judicial Services Commission should be reformed by removing the excessive number of politicians on it and replacing them with retired judges and civil society figures drawn from labour unions, faith-based organisations and business.

43. Although the *Political Party Funding Act* (2018) has been passed by Parliament to ensure some transparency in the private funding of political parties, there are suggestions that this law should be amended further to strengthen public scrutiny and controls over private sector funding to political parties.

44. We must demand that the government acts on the recommendations of the Zondo Commission of Inquiry into State Capture and other related Commissions of Inquiry into state malfeasance. We trust that the government's response to the Zondo Commission that is expected later this year, will not tinker on the surface but will cut deep to root out corruption and state capture from our body politic.

45. We hereby call on the diverse sectors of our society to consider this **Discussion Paper** in preparation for the **Conference for Democratic Renewal and Change** scheduled for June 2022 in Johannesburg. Your ideas, suggestions and comments should be submitted to the Secretariat: Defend our Democracy Campaign by 31 May 2022.



QUESTIONS FOR DISCUSSION

Do you agree or disagree with the abovementioned suggestions? Specify, and say why, in each case?

Should our electoral system be changed? If yes, what do you suggest should be done?
Should the President of the country be elected directly through a popular vote?

Should the Political Party Funding Act (2018) be further amended to control the funding of political parties by the private sector? If yes, in which way?

How can you ensure that your MP, MPL and Councillor is more accountable to you and your community?
How can you and your community monitor the performance of your public representatives, particularly your Councillor, at local level?

What can be done by you and your community to improve the delivery of services in your community?

Do you think the private sector is doing enough to fight corruption and state capture? What suggestions do you have to ensure that corrupt elements within the private sector are held to account for their misdeeds in communities?

Considering the involvement of elements within the private sector in state capture and political party funding, what role should the private sector play in strengthening democracy and fighting corruption?

How can the private sector contribute to developmental programmes and municipal improvements in your community?

What effect is xenophobic actions and racist behaviour, and related instances of vigilantism, having on our democracy? Do these kinds of actions and behaviour pose a threat to our democracy?

How does wealth inequality impact on access to our Courts and how does this affect our democracy? Are there alternative dispute settlement mechanisms which should be used?

How will you go about establishing a broad, united front in your community to defend and renew our democracy and work for meaningful change?

Do you and/or organisation have any further suggestions in respect of the issues raised in this discussion paper? What are these?



For further information on the planned Conference for Democratic Renewal and Change, contact defendourdemocracy1@gmail.com
Please send your comments on this Discussion Paper by May 31st 2022.
Visit this link to submit your feedback: bit.ly/37hqXvA