

# SOUTH AFRICA AFTER APARTHEID: THE FIRST DECADE

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After another resounding African National Congress (ANC) victory at the polls, Thabo Mbeki began his second term as president on 27 April 2004—ten years to the day after the historic elections that brought non-racial democracy to South Africa. The indelible images of the 1994 general elections depict the snaking queues of patient voters on election day and the crowds cheering at the inauguration of Nelson Mandela as the country's first popularly chosen president. But just weeks earlier such a storybook ending had looked improbable, as groups opposed to the new constitutional order appeared bent on violently disrupting South Africa's founding elections. The government of the former black "homeland" of Bophuthatswana, for example, was blocking election preparations and reconsidered only when national troops arrived to crush its resistance. An even more ominous situation loomed in the KwaZulu homeland, where a week and a half before election day the Inkatha Freedom Party (IFP) government vowed noncooperation. With arms caches rumored to be spread throughout the region's hilly countryside, many feared a bloody military confrontation. Meanwhile, white right-wing extremists backed the intransigence of the homelands, and on the eve of the elections set off a bomb in Johannesburg's international airport.

Fast-forward ten years to April 2004, and the picture is very different: The run-up to South Africa's third democratic national election lacks dramatic security threats; the ANC commands a national majority of roughly two-thirds and occupies most of the center of the political spectrum; and most of those opposed to the 1994 elections now accept

the constitutional order and have formed “niche” parties of the right and the left, some holding a few parliamentary seats. The Independent Electoral Commission (IEC) has built a reputation for impartial and effective administration solid enough that the United Nations, the Commonwealth, and the European Union do not even bother sending observer missions. Attention has shifted to more mundane worries, such as the concern—in the end largely unfounded—that an election two days after the long Easter weekend would tempt complacent voters to extend their vacations, depressing turnout. Juxtaposing this relative serenity with the violence plaguing recent elections and democracy-building efforts in Spain, Taiwan, and Iraq, the country’s leading political cartoonist reminds South Africans that “sometimes boring is better.”<sup>1</sup>

South Africa’s first decade of democracy will be remembered for the surprising ease with which seemingly intractable conflict was subjected to the routine functioning of democratic institutions. The country’s legacy of political polarization—rooted in deep socioeconomic inequalities, reinforced by a state founded on racial discrimination, and inflamed by a history of political violence—could hardly have provided a less promising foundation for a stable democracy. Moreover, news of the Rwandan genocide from just before the 1994 election underlined the potential for catastrophe. But South Africa’s political transition was not to be derailed. It had begun when key adversaries realized they could not unilaterally impose their will by force, and as in other post-Cold War political transitions, the absence of superpower rivalry allowed the space for a negotiated settlement to the stalemate. South Africa’s success was also a result of local political creativity, as demonstrated by the Truth and Reconciliation Commission’s approach to processing amnesty applications from gross human rights abusers. Merging legal disclosure requirements with religious rituals of repentance and forgiveness, the Commission, chaired by Archbishop Desmond Tutu, placed once-secret details of private horrors on the official record—sometimes even eliciting public gestures of reconciliation between perpetrators and victims.

With threats to political stability receding, concerns about South African democracy today focus mainly on the possible perils of an emergent dominant-party regime. Elections have been freely contestable and vigorously contested, but their outcomes have generally been lopsided: The ANC has achieved large and gradually expanding national majorities, reaching nearly 70 percent in 2004. This lack of competitiveness is often attributed to racial voting patterns and to institutional arrangements, such as closed party lists and the absence of minority vetoes, that stack the deck against contenders from inside and outside the party. If, as Joseph Schumpeter asserted, democracy’s principal benefits are byproducts of party competition for political office, then the quality of South African democracy must be attenuated so long as the median voter is safely ensconced in the ANC.

While election outcomes have become marginally less competitive since 1994, the institutional foundations of democratic contestation and constitutional government have become stronger. According to John Locke, democracy's principal benefits flow from the limits it imposes on arbitrary state authority. In South Africa, unlike many first-generation democracies in postcolonial Africa, electoral dominance has not been taken as a license to dismantle democratic institutions. The South African constitution, forged against the country's history of human rights abuse, contains a progressive set of political, property, and socioeconomic rights that specify elaborate limits on government's legitimate use of state power. The Constitutional Court—housed in a former Johannesburg prison where political executions were once carried out, and whose former inmates include Nelson Mandela, Mahatma Gandhi, and Robert Sobukwe—has been invested with a symbolism that buttresses a solid record of judicial independence. Moreover, founding constitutional provisions entrench multiparty democracy; the IEC's electoral administration is widely respected; the country's pluralistic civil society is flourishing; and the media provide an open forum for information and debate about the many challenges facing the country.

This essay analyzes the first decade of South African democracy—beginning with electoral politics and administration, then considering government responsiveness and accountability. The analysis is oriented within two conceptual dimensions: one defined by Schumpeterian considerations of political competition and monopoly, and the other by Lockean concerns with limiting arbitrary state power. Collapsing the account into either of these dimensions alone would omit and distort important parts of the story.

## **Electoral Politics and Administration**

South Africa's electoral system, on both the national and provincial level, is based on proportional representation without minimum thresholds. Vote shares thus translate directly into shares of legislative seats (subject to rounding). The National Assembly has 400 seats, meaning that each one corresponds with 0.25 percent of the electorate—today roughly 40,000 votes. The National Assembly selects the president from among its members, and the president in turn appoints the cabinet. A separate ballot elects members of provincial legislatures and, indirectly, members of the National Council of Provinces (NCOP)—a second house of parliament, concerned primarily with national legislation about provincial governance. Constitutional amendments generally require approval by a two-thirds majority in the National Assembly and six of nine provinces in the NCOP. Amendments of founding principles—such as the country's status as a nonracial, multiparty democracy—require three-quarters assent in the National Assembly.

**TABLE—ELECTION RESULTS, 1994–2004**

PARTY	1994	1999	2004
African National Congress	63%	66%	70%
National Party/New National Party	20	7	2
Inkatha Freedom Party	11	9	7
Democratic Party/Democratic Alliance	2	10	12

*Note:* The table includes all parties that have polled 5 percent in at least one of the elections. Detailed election results are available at [www.elections.org.za](http://www.elections.org.za).

Though consociationalism was once widely touted for South Africa’s “divided society,” the constitution conspicuously lacks special vetoes for minority groups. Beyond an expansive bill of rights that applies equally to all citizens, the main protections for minority political interests are provisions for proportional representation and provincial government. Proportionality allows small political groups to secure representation that would be unattainable in a first-past-the-post system, while the system of provincial government reflects the political realities of the constitutional negotiations. At the time, it gave the two main players besides the ANC strong chances of controlling provincial governments—the National Party (NP) in the Western Cape, and the IFP in KwaZulu-Natal. Yet, on the ANC’s insistence, the authority allocated to provincial governments fell well short of NP and IFP demands for full-blown federalism. Meanwhile, transitional arrangements guaranteed the NP and IFP some influence by establishing a five-year Government of National Unity (GNU), effectively entitling each party to a deputy presidency and cabinet representation. The interim constitution required the GNU to adopt a “consensus-seeking spirit,” but pointedly stopped short of giving minority parties formal vetoes.

The table above shows that in the three national elections so far, the ANC has maintained a wide and gradually increasing margin over its main competitors. In fact, the party’s average lead over its closest rival has exceeded 50 percent nationally. ANC support is strongest among those whom the apartheid system classified as “African” (“White,” “Indian,” and “Coloured” being the other categories). Outside the IFP’s rural KwaZulu-Natal base, the ANC attracts close to nine out of ten African voters. This bloc alone is sufficient to ensure more than a simple majority nationally.

The crisscrossing fortunes of the National Party (NP), now the New National Party (NNP), and the Democratic Party (DP), now the Democratic Alliance (DA), mainly reflect a direct migration of supporters between the parties. From 1994, the NP—the apartheid-era governing party—sought to rehabilitate itself by cooperating with the ANC in government in the spirit of nation-building. But insecurities among mainly White, Coloured, and Indian NP supporters led them to gravitate toward the DP, which continued a tradition of British-style liberal op-

position but shifted its target from the apartheid government to the new ANC-led GNU. NP leader F.W. de Klerk responded to this political threat by pulling his party out of the GNU in mid-1996, attempting a makeover as the New National Party (NNP) in time for the next national election. The DP, whose 1999 campaign slogan was “Fight Back,” nevertheless emerged as the largest opposition party. The election result prompted the NNP, now led by Marthinus van Schalkwyk, to join forces with its rival in forming the Democratic Alliance, but leadership tensions led to the NNP’s withdrawal from the DA a year later. The NNP’s decline continued in the 2004 election, with its vote share dwindling to below 2 percent—compared to 20 percent a decade earlier.

Besides swelling the ANC’s national majority, the 2004 election also allowed the party to name all nine provincial premiers. The ANC had previously won large majorities in seven of nine provinces—the exceptions being the KwaZulu-Natal and Western Cape provinces, which had been led by the IFP and the NNP, respectively. Until the 2004 election, the ANC had been a junior partner in coalition governments in KwaZulu-Natal, where the IFP won pluralities in 1994 and 1999. The IFP’s gradually waning support in KwaZulu-Natal can be inferred from national trends, since the party’s base is heavily concentrated in the rural former KwaZulu homeland. By contrast, the ANC is more popular among the Zulu-speaking population in and around Durban, the province’s main urban center. In the 2004 election, the ANC won 47 percent of the provincial vote, enough to surpass the total received by the IFP (37 percent) and that of its preelection partner, the DA (8 percent). As a result, the ANC now heads the KwaZulu-Natal government, with IFP participation in the provincial cabinet.

Western Cape politics have been more complicated, owing to erratic relations between the NNP and the DP. After the 1999 election, the parties combined as the Democratic Alliance (DA) to form a minority provincial government, shutting out the ANC despite its plurality. The structure of the DA reflected the DP’s stronger national profile, even though the NNP’s 1999 support in the Western Cape still dwarfed that of the DP. Tensions erupted when the DP-aligned leadership removed the NNP-aligned provincial premier in October 2001, leading the NNP to withdraw from the Alliance and pursue cooperation with the ANC, aiming to gain joint control of both the Western Cape government and the Cape Town Metropolitan Council at the DA’s expense. To cement the new coalition, the ANC backed a constitutional amendment allowing legislative floor-crossing under specific conditions, mainly so that NNP municipal councilors elected under the DA banner in 2000 could defect without losing their seats. When the floor-crossing rules finally went into effect in 2003, the resulting political realignment swung the Western Cape government and the Cape Town Metropolitan Council to the ANC-NNP coalition, and NNP’s van Schalkwyk was appointed pro-

vincial premier. The 2004 election returned the coalition to power, but the ANC's enhanced plurality gave it the premiership.

The arena for democratic contestation has become increasingly well-institutionalized during the past decade, under the management of the well-regarded Independent Electoral Commission. The IEC was first convened in December 1993—chaired by judge (later Constitutional Court justice) Johann Kriegler—and given less than five months to organize the country's first all-race election. Besides security threats, it faced huge logistical challenges, rooted in the fragmented and uneven local administrative infrastructure inherited from the apartheid system. Voter registration was an unaffordable luxury, so any citizen or permanent resident who brought an official identity document to a polling station on election day was allowed to participate. (Special ink applied to the thumb, visible under ultraviolet light, ostensibly prevented repeat voting.) A total of 19.7 million ballots were cast—nearly 90 percent of the eligible electorate—but alleged widespread irregularities led political parties to question the validity of about 1.5 million of them. After investigation and intense consultations with the political parties, the IEC announced election results accepted as “substantially free and fair” by all parties.

The IEC has since taken great strides to improve elections' procedural integrity. Preparations for the 1999 national and provincial elections focused on compiling the country's first common voters' roll. To register, citizens were required to present bar-coded identity documents at designated registration stations several months before the election. Concerns that these procedures might severely discourage participation were allayed when a voters' roll with 18.2 million names was announced, and were further put to rest when nearly 90 percent of registered voters went to the polls in June 1999. By 2004, confidence in the IEC was strong. Turnout fell slightly—to 15.9 million, from 16.2 million in 1999—and isolated irregularities were reported, but these details failed to dampen enthusiastic countrywide celebrations of South African democracy's tenth anniversary.

## Government Responsiveness

A “top-down” pattern of executive-legislative relations in South Africa has prompted questions about the government's responsiveness to public needs and aspirations. Closed-list proportional representation makes members of parliament more directly dependent on the backing of party leaders than on voter support. Effective legislative authority is highly centralized in the executive—consisting of the presidency and cabinet—which relies heavily on its senior appointees in the public bureaucracy for technical policy advice. Though parliament serves some useful functions, for example through its committees' deliberations and

public hearings, it is not the main venue for exerting influence on the major policy issues facing the country—such as postapartheid economic restructuring and the catastrophic HIV/AIDS pandemic.

The National Assembly's legislative record shows that the executive can count on virtually certain parliamentary ratification of its proposals. During the first decade of democracy, the Assembly passed 907 pieces of legislation—all of them supported by the ANC. Voting has revealed near-perfect party discipline: No ANC member has voted against a bill, and each of the other parties has almost always voted as a bloc. Moreover, without veto power, opposition parties can do little to counter a disciplined ANC delegation. But despite the ANC's ability to dominate procedurally, and notwithstanding real differences of opinion among the parties, their interaction in the National Assembly has not been especially polarized.<sup>2</sup> Parties that oppose bills can register their views by voting against them or by lodging formal objections; nevertheless, more than half the bills ratified since 1994 have been passed by acclamation. The majority party has thus not resorted to relentlessly steamrolling opposition resistance in parliament.

The government's approach to postapartheid economic restructuring and transformation has sparked more controversy among ANC partisans than it has between the ANC and other parties.<sup>3</sup> The Reconstruction and Development Program (RDP), central to the ANC's 1994 election platform, was initially devised with its allies, the Congress of South African Trade Unions (COSATU) and the South African Communist Party. Early versions envisioned expanded state economic involvement, corporatist policymaking, and a strategy of "growth through redistribution" based on optimistic trickle-up economics, but as the ANC prepared to govern, the party moved toward more globally mainstream ideas about market-friendly development. For Nelson Mandela and other key leaders, a central priority was to address the high expectations for socioeconomic improvement among black South Africans without violating tight resource constraints. Thus, in 1995, a team overseen by then-deputy president Thabo Mbeki began work on an explicit macroeconomic strategy, drawing in policy experts from the ANC's traditional allies, other local economists, and World Bank staff. Shortly after the appointment of Trevor Manuel as the first ANC finance minister in 1996 (NP appointees previously held the portfolio), the team's activities were overtaken by a sharp currency depreciation. As a result, the Growth, Employment, and Redistribution (GEAR) strategy was rushed to publication, and the government's firm commitment to its aggressive fiscal deficit-reduction targets helped to soothe jittery markets.

Anticipating that the government's adoption of GEAR would be portrayed by many critics as evidence of its abandonment of the Reconstruction and Development Program, GEAR drafters packaged the strategy as a framework for achieving RDP goals. A strong redistributive

thrust in public expenditure continued in such areas as basic housing, water, sanitation, and health services, though these efforts were subjected to smaller budgets and greater control by financial officials than in early versions of the RDP. But the government's "technocratic" approach on GEAR did not extend to all economic policy making. The overhaul of apartheid-era labor legislation, for example, was much more "consultative," with extensive input from organized labor and business at the consensus-seeking National Economic Development and Labor Council.<sup>4</sup> The outcome was a more regulated labor market, with a greater emphasis on centralized bargaining, than had been envisioned in GEAR. As a result, the strongest supporters of GEAR's fiscal and monetary orientation have often been among the strongest critics of the labor legislation, and vice versa.

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Ten years after South Africa's founding democratic election, the debate over economic restructuring and transformation continues, and the challenges remain immense. The government has successfully avoided the temptations of macroeconomic populism, but with an average GDP growth of less than 3 percent (under 1 percent per capita), it has failed to narrow overall income inequalities substantially and to make a serious dent in the nearly 40 percent unemployment rate. The distribution of income among races has become less unequal as many better-educated black South Africans have entered the middle and upper economic strata, aided by policies promoting economic empowerment and employment equity. The less fortunate, however, have seen little or no upturn in their job prospects, though improved basic public services have ameliorated material hardship for many.

Economic transformation aside, the most difficult policy challenge facing the country is its harrowing HIV/AIDS pandemic. Estimates suggest that South Africa now is home to more HIV-positive residents than any other country in the world—with about one in five adults infected. AIDS now inflicts more deaths *every week* on South Africa (with a population of less than 50 million) than al-Qaeda did on the United States in the September 11 attacks.<sup>5</sup> While in the case of GEAR the government was criticized for moving decisively without consultation, on AIDS it is faulted for allowing a few leaders—notably President Thabo Mbeki and health minister Manto Tshabalala-Msimang—to block a concerted response to the problem despite strong public pressure. In the early 1990s, the ANC had developed a progressive AIDS strategy, but after taking

the reins of government it stumbled from one high-profile fiasco to another—including aborted plans for a lavish anti-AIDS musical production, and direct cabinet support for research on a “miracle treatment” that turned out to be an industrial solvent.<sup>6</sup> Until the 1999 election, the government’s erratic AIDS initiatives can plausibly be attributed to the urgency with which it sought alternatives to expensive antiretroviral drug treatment. Soon after Mbeki’s accession, however, the new president began publicly questioning the link between HIV and AIDS and stressing the toxicity of antiretroviral drugs. The president’s sympathy for AIDS denialists, in addition to affordability concerns, began to stymie major policy initiatives.

The most vocal champion of making antiretroviral treatment available to all South Africans has been the Treatment Action Campaign (TAC), an NGO founded in 1998. It has moved on two fronts: against the international pharmaceutical industry, for access to lower-cost AIDS drugs; and against the South African government, for a comprehensive treatment program. Its leader, Zackie Achmat, a charismatic and politically astute former antiapartheid activist, is himself HIV-positive. An early TAC triumph was (with its U.S. counterpart ACT-UP) to secure an executive order from President Bill Clinton withdrawing U.S. objections to a South African law allowing imports of generic AIDS drugs. In its battles with the South African government, the TAC has employed diverse tactics: from confrontational mass action, to a Constitutional Court challenge of government HIV/AIDS policy, to participation in official policy consultations convened at the National Economic Development and Labor Council. Achmat has consistently presented himself as a loyal ANC member, but the TAC as an organization has carefully avoided affiliating itself with any political party.

During 2003, the TAC began to make steady headway on government policy. In August, the cabinet issued a statement acknowledging the efficacy of antiretroviral drugs in treating AIDS, and in November the health ministry announced a plan for their general use in the public-health system. The TAC’s reaction was only cautiously optimistic, however, because prior breakthroughs had been followed by government footdragging and backtracking. In a live television interview aired by the South African Broadcasting Corporation on 9 February 2004, Mbeki seemed reluctant to offer more than a tepid endorsement of the new policy. Pressed on whether greater presidential compassion and commitment might be helpful on AIDS, as it had been in Uganda, he replied that he had delegated this role to his deputy. In the interview he also expressed puzzlement at the fixation on “this matter” compared with other important health issues, like diabetes. Nevertheless, the Gauteng province premier, a close political confidant of Mbeki, has since initiated large-scale distribution of antiretrovirals throughout the province, which includes Johannesburg and Pretoria. The

launch, which came two weeks before the 2004 election, suggests that the government is not immune to political pressure. More importantly, the country is finally on track with a credible and comprehensive AIDS treatment program, details on which were included in Mbeki's May 2004 State of the Nation speech.

### **Government Accountability**

With little meaningful institutional separation of power between the executive and legislative branches, South Africa's judiciary is central to prospects for accountable government. The constitution, like its liberal counterparts worldwide, asserts basic political, civil, and property rights and protects them against arbitrary state interference. More ambitiously, it also declares rights to housing, health care, food, water, and social security—enjoining the state to “take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of these rights.” The constitution specifies formal limits on the government's discretionary authority, but the substantive effect of these limits is contingent upon the performance of various institutions—from the Constitutional Court at the pinnacle of the judicial branch, to the Standing Committee on Public Accounts in the belly of parliament.

The Constitutional Court's record of upholding restraints on government can be assessed by reviewing its judgments since 1994.<sup>7</sup> Of the 220 cases the Court has considered in the past decade, 58 in some sense tested its willingness to restrain the ANC-led government. They fall into two main categories: cases involving party-political disputes about the allocation of public authority (mainly between the national government and opposition-controlled provincial governments), and cases involving constitutional challenges to post-1994 legislation or government actions. I have analyzed these cases not to assess the legal validity of the Court's judgments, but merely to determine whether, on average, those challenging the government on constitutional grounds have had reasonable prospects for success. The findings confirm that the Constitutional Court regularly upholds restraints on government authority. In the 58 cases examined, the Court ruled against the government 23 times—a loss rate of 40 percent. Patterns are similar in cases involving political disputes over the allocation of public authority (where the loss rate is 45 percent) and in those concerning public challenges to postapartheid laws and governmental actions (where the loss rate is 36 percent). The loss rate has increased over time: Between the 1994 and 1999 elections, the government lost 24 percent of Constitutional Court judgments; between 1999 and 2004, the figure rose to 49 percent. While the increased loss rate does not in itself (that is, without a normative analysis of each case) indicate that the Court has become tougher on the government, the record suggests that it is unlikely the

Court has become more lenient. For an ANC-led government with an undefeated 907-0 record in parliament, the Constitutional Court clearly has turned out to be a more challenging arena.

A 2002 judgment in favor of a TAC challenge to policies on mother-to-child HIV transmission shows the Court's willingness to hold the government to the socioeconomic provisions in the constitution. The case focused on official restrictions on the use of the approved antiretroviral drug nevirapine in the public-health sector, outside each province's two designated pilot sites. A nevirapine tablet administered as the mother goes into labor and a few drops on the baby's tongue within 72 hours of birth markedly reduce the likelihood of HIV transmission, and the drug's manufacturer had committed to giving the government a free supply for at least five years. By restricting nevirapine's medically appropriate use, the TAC argued, the government violated the socioeconomic rights of HIV-positive mothers and their babies. In its judgment, the Court ordered the government to allow the use of nevirapine throughout the public-health sector, wherever adequate HIV testing and counseling services were available, and to take reasonable measures to extend the availability of these services. The TAC's court challenge thus effected a substantial change in the government's controversial HIV/AIDS policy—a change that in most political systems could have been achieved only through the legislative process. It is also a concrete example of how a determined civil society organization can influence the behavior of South Africa's dominant-party government.

In a very different case in the same year, the Court declined to strike down constitutional amendments allowing legislators to “cross the floor” to other parties during specified “window periods” without losing their seats. The amendments followed the NNP's withdrawal from the Democratic Alliance and—by helping cement an ANC-NNP cooperation agreement—transparently advanced ANC partisan interests in the Western Cape. The National Assembly had passed the amendments in June 2002 with an 86 percent majority—including the ANC, the NNP, and the DA. Another party, the United Democratic Movement, launched the legal challenge and took it all the way to the Constitutional Court. The Court, emphasizing that its role was to judge not the legislation's political merits, only its constitutionality, ruled that floor-crossing provisions are permissible in principle (noting that they exist in many proportional-representation systems worldwide) and that proper legislative procedures had been followed.<sup>8</sup> In this episode, the competitiveness of Western Cape politics tempted the ANC into opportunistically altering the rules of the game, but at least did so within constitutional parameters.

A final example illustrates the severe difficulties in establishing the executive's accountability to the legislature. In late 2000, a critical report from the auditor-general led the Standing Committee on Public

Accounts (SCOPA)—which monitors compliance with public-finance regulations—to seek an aggressive inquiry into corruption allegations linked to a multibillion-dollar arms purchase. SCOPA had traditionally operated according to norms of nonpartisanship, with an opposition chairperson and consensual decision making, and the inquiry was led by its chair, Gavin Woods of the IFP, and Andrew Feinstein, head of the ANC delegation. Feinstein soon faced pressures from high-ranking ANC officials, including the chief whip and former deputy defense minister Tony Yengeni, along with Deputy President Jacob Zuma. In January 2001, Yengeni announced Feinstein’s removal as head of the party’s SCOPA delegation, openly advocating a partisan approach driven by committee “members who will be a political link with ANC structures.” Feinstein resigned from parliament in August, stating that he “could no longer play a constructive role in Parliament under the current political strictures.”<sup>9</sup>

Though this episode highlights the obstacles to legislative oversight of the executive, the arms-deal investigations continued in a way that reflects more favorably on government accountability. In February 2003, Yengeni was convicted of fraud after he admitted receiving a heavily discounted luxury car from a European arms contractor, and he is now appealing a four-year prison sentence. He resigned from parliament in March 2003, reportedly under strong pressure from the ANC leadership. Later in the year, South Africa’s National Prosecuting Authority (headed by former human-rights lawyer and ANC underground operative Bulelani Ngcuka) issued a charge sheet for corruption against Deputy President Zuma’s personal financial adviser, who is the brother of the defense department’s acquisitions chief. Zuma has not been indicted, but the charge sheet and Ngcuka’s public statements suggest that he may face further scrutiny.<sup>10</sup> The arms-deal saga conforms with a more general pattern: Though the concentration of executive and legislative authority limits parliament’s influence, the judicial branch has been a partial substitute—not only on accountability issues, but also on policy matters that in most other democracies would fall within the legislature’s control.

## **Toward a Second Decade**

That it is even possible to assess a decade of democracy in South Africa is a testament to the country’s success in overcoming a legacy of polarization and seemingly intractable political conflict. That this success has been achieved while affirming the rights and dignity of all South Africans serves as a reminder that stable democracy is more than just a well-crafted conflict management mechanism. My account of the past ten years, combining Schumpeter’s emphasis on political competition with Locke’s on limiting arbitrary government authority, has

identified complex and sometimes unexpected interactions. South Africa's record of government responsiveness and accountability, though far from perfect, demonstrates that democratic contestation and constitutional government provide a solid institutional platform for developmental governance—especially when combined with an active civil society.<sup>11</sup>

At the same time, any democracy in which a single political party is overwhelmingly dominant has structural vulnerabilities. Institutionalized limits on government authority must be self-enforcing—that is, governments must find it to be in their own political interests to abide by them. All else being equal, a government enjoying the support of a very large majority faces stronger temptations to transgress formal limits on its authority, possibly contributing to democratic erosion.<sup>12</sup> I have pointed to two clear-cut instances where the ANC has used its dominance opportunistically: in passing floor-crossing legislation that directly strengthened its hand in the unusually competitive politics of the Western Cape, and in intervening in the SCOPA arms-deal investigation to shield prominent government officials from an aggressive inquiry. Yet the government has consistently treated the consolidation of constitutional democracy as a central component of postapartheid governance—not, as many of its postcolonial African predecessors did, as a transitional encumbrance to be shucked at the first opportunity.

The resilience of South African democracy will depend in large measure on how successfully the country tackles its daunting social and economic challenges. Evidence shows that democratic regimes are least susceptible to breakdown where they are associated with improvements in material welfare that are widely distributed throughout society.<sup>13</sup> The South African government's policies on economic restructuring and transformation, in addition to its HIV/AIDS policy, will help determine how well the political center holds in the future. The country must also make further progress in tackling its serious crime problem: South Africa's per capita murder rate (murder being the most reliably measured violent crime) is about ten times higher than that of the United States, but has declined steadily since 1994—the latest available figures showing a cumulative drop of 30 percent.<sup>14</sup> Though much remains to be done to strengthen the social and economic foundations of South African democracy, the country recently received an encouraging vote of international confidence when it was selected to host soccer's 2010 World Cup.

On the political front, simultaneous trends toward single-party dominance and stronger democratic institutions set the stage for the coming decade. Given the ANC's centrality in the political system, the party's internal workings—along with its actions in government—will have important implications for either the deepening or erosion of South African democracy. The ANC must soon select a new leader, as the constitution bars Mbeki from seeking reelection in 2009. For his part,

the president has dismissed speculation that he has third-term ambitions as a “falsification” by political opponents using “the fictional threat of a one-party state” in their election campaigns.<sup>15</sup> Still, no heir is yet apparent, and the succession process has high stakes.

More broadly, assessments of democratic consolidation in dominant-party systems like South Africa’s run up against an analytical difficulty at the heart of Samuel P. Huntington’s well-known “two-turnover test.” The logic behind the test is that democracies can be regarded as consolidated only if governments can routinely be removed by electoral means, and the only really reliable indicator that they can be removed is that they *have* been removed.<sup>16</sup> From recent election results, it does not seem that South Africans are in any particular hurry to find out whether their country could pass this test.

## NOTES

1. Jonathan ‘Zapiro’ Shapiro, cartoon in the *Sunday Times* (Johannesburg), 21 March 2004, [www.sundaytimes.co.za/2004/03/21/insight/zapiro.gif](http://www.sundaytimes.co.za/2004/03/21/insight/zapiro.gif).

2. The National Assembly has seen one exchange of punches, between ANC and an NP member (both Afrikaner males) two years after the NP’s withdrawal from the GNU.

3. See Hein Marais, *South Africa, Limits to Change: The Political Economy of Transformation* (Cape Town: University of Cape Town Press and Zed, 1998); for a briefer summary, see Tom Lodge, *Politics in South Africa: From Mandela to Mbeki*, 2nd ed. (Bloomington: Indiana University Press, 2003), 54–85.

4. The contrast between “technocratic” and “consultative” policy making in the two issue-areas is confirmed by participants’ own observations; see Rod Alence, “The Economic Policymaking Process in South Africa: Report on a Survey of an Informed Panel, Late 1997,” *Democracy and Governance Research Report* (Pretoria: Human Sciences Research Council, 1998).

5. Though the number of AIDS-related deaths can only be estimated, the pandemic’s magnitude is staggering; see Rob Dorrington et al., “The Impact of HIV/AIDS on Adult Mortality in South Africa,” Burden of Disease technical report, Tygerberg, South Africa, Medical Research Council, 2001; Thomas M. Rehle and Olive Shisana, “Epidemiological and Demographic HIV/AIDS Projections: South Africa,” *Journal of AIDS Research* 2 (May 2003): 1–8.

6. On the evolution of AIDS policy in South Africa, see Nicoli Nattrass, *The Moral Economy of AIDS in South Africa* (Cambridge: Cambridge University Press, 2004), 41–65; Olive Shisana and Nompumelelo Zungu-Dirwayi, “Government’s Changing Responses to HIV/AIDS,” in David Everatt and Vincent Maphai, eds., *The Real State of the Nation: South Africa After 1990*, special issue of *Development Update* 4 (November 2003): 165–87; on policy in the Mbeki era, see also Tom Lodge, *Politics in South Africa*, 255–65.

7. A complete collection of judgments is available at the Constitutional Court’s website at [www.concourt.gov.za](http://www.concourt.gov.za). The case numbers for the examples discussed later in this section are CCT 8/02 (government policy on mother-to-child HIV transmission) and CCT 23/02 (laws permitting legislative “floor-crossing”).

8. After the first floor-crossing “window” in 2003, several previous NNP mem-

bers stayed with the DA; enough departed to hand the ANC-NNP control of the Western Cape and Cape Town; and the United Democratic Movement's national delegation shrank from 14 to 4.

9. Carol Paton, "Drowning in a Sea of Troubles," *Sunday Times*, 4 February 2001; "Statement by Andrew Feinstein, MP," 30 August 2001, [www.anc.org.za/ancdocs/pr/2001/pr0830c.html](http://www.anc.org.za/ancdocs/pr/2001/pr0830c.html).

10. "How the Case against Shaik Implicates the Deputy President," *Sunday Times*, 31 August 2003.

11. For a more detailed analysis of crossnational African patterns, see Rod Alence, "Political Institutions and Developmental Governance in Sub-Saharan Africa," *Journal of Modern African Studies* 42 (June 2004): 163–87.

12. Barry Weingast, "Political Foundations of Democracy and the Rule of Law," *American Political Science Review* 91 (June 1997): 245–63.

13. Adam Przeworski et al., "What Makes Democracies Endure?" *Journal of Democracy* 7 (January 1996): 39–55.

14. The murder rates are from official South African Police Service sources, and the most recent available figures are for 2002. Independent national survey research also points to high but decreasing levels of violent crime between 1998 and late 2003; see Patrick Burton et al., "National Victims of Crime Survey: South Africa, 2003," *ISS Monograph Series* (Pretoria: Institute of Security Studies, May 2004).

15. Thabo Mbeki, "Letter from the President: Voters Will Not Be Swayed by Fear or Fiction," *ANC Today*, 5 March 2004.

16. Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), 266–67.