

## A reflection on moments that tested the effectiveness of South Africa's constitutional democracy

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### Abstract

This paper reflects on some of the effects of the factional battles inside post-apartheid South Africa's ruling party, the African National Congress (ANC), to highlight the resilience and effectiveness of the country's constitutional democracy. The paper commences by discussing the entrenchment of democratic rule during Nelson Mandela and Thabo Mbeki's presidencies. It proceeds to deliberate on the divisive factional rivalry between Mbeki and Jacob Zuma's supporters that ensued inside the ANC during Mbeki's second term, a development that came to threaten the country's very constitutionalism as it morphed into another rivalry between Zuma and his successor, Cyril Ramaphosa. The article concludes that though democracy under Ramaphosa's presidency still faces grave challenges, it has actually been strengthened and will likely endure for the foreseeable future.

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### Keywords

*South Africa, democracy, constitution*

## Introduction

South Africa's constitutional democracy has been seen as a beacon of light on a continent ravaged by violent conflicts and autocratic regimes. However, battles among the country's political leaders have seen South Africa's democratic rule going through upheavals that have threatened the country's very democracy. This paper reflects on some of the factional battles inside South Africa's governing party, the African National Congress (ANC), that have tested the country's constitutional democracy. It starts by discussing the political developments during the first ten years of post-apartheid South Africa, the era of Nelson Mandela and Thabo Mbeki. The second section deliberates on Jacob Zuma's presidency, a period dubbed the 'nine wasted years' because of government corruption and the ANC's factional infighting. Lastly, the paper observes Cyril Ramaphosa's presidency and concludes that, despite the ongoing challenges, South Africa's constitutional democracy is resilient and relatively effective in promoting good governance.

## The new South Africa: From Mandela to Mbeki

Emerging out of looming doom and gloom, South Africa's relatively peaceful transition in 1994 from a pariah regime to a genuinely democratic state was described by many as a 'political miracle' (Barber 2000: 51; Grove 2007: 101). The ANC, under the leadership of the iconic Nelson Mandela, subsequently led a government founded on liberal democratic principles, which also served as a basis for its foreign policy. The new South Africa's 1996 constitution was even hailed by some, including the late United States of America (US) Supreme Court Justice Ruth Bader Ginsburg, as a 'great piece of work' and the 'the world's best constitution' (Young 2020). Mandela's rule of law and human rights-based government served as a beacon of hope in a continent plagued by violent conflicts and tyrannical regimes.

Mandela served only one term before, in 1999, he handed over power to Thabo Mbeki, whose presidency saw strong economic growth and financial stability in South Africa (Herbst 2005: 97; McGreal 2008) and the continued rise of a robust media and civil society. However, the country remained one of the most unequal societies in the world, with high unemployment and poverty rates (Herbst 2005: 97). These conditions provided a breeding ground for political patronage and corruption as membership of the ANC became a ticket for jobs and business opportunities in government and state-owned enterprises (SOEs). When some senior ANC leaders (including then deputy president of both the ANC and the state, Jacob Zuma) were implicated in corruption, Mbeki fired Zuma from the deputy state

presidency. Consequently, a bitter factional rivalry developed inside the governing party between Zuma's supporters and Mbeki's. The ANC eventually pushed Mbeki to resign as state president a year before his second term ended, following his defeat by Zuma in the 2007 race for the party's leadership (McGreal 2008).

## The 'nine wasted years'

South Africa was feared to become a 'banana republic' during Zuma's presidency (BusinessTech 2019) as his loyalists were elevated to key positions of power. The fears seemed to be coming true in 2013 when the politically connected Gupta family landed their private plane on a strategic military airport in the country's capital, Pretoria (Maphanga 2020). Subsequent probes by the media exposed rampant corruption in government directly linking Zuma and the Guptas. This included reports of the multimillion-rand state-funded renovations at Zuma's private home in Nkandla (Evans & De Wet 2014; Rossouw 2009) and 'state capture' exposés of how the ANC took orders from the Gupta family, including regarding the appointment of cabinet ministers and heads of SOEs (Jika, Hunter & Skiti 2016). Public pressure prompted a high-profile investigation by then Public Protector Thuli Madonsela, which ministers of police, justice, intelligence and defence who were allied to Zuma attempted but failed to halt (Evans 2013). Her much-awaited report found that Zuma breached the executive members' code of ethics, permitting widespread corruption. She recommended the establishment of a commission of inquiry to investigate the state capture allegations and that Zuma repay a portion of the renovations money (Evans & De Wet 2014). Despite vile verbal attacks by Zuma's supporters, Madonsela's Nkandla investigation has been widely lauded as a triumphant moment for South Africa's constitutional democracy. Under pressure, Zuma grudgingly established the state capture commission of inquiry (headed by Deputy Chief Justice Raymond Zondo) but failed to repay the renovations money. However, he was dealt a further blow when the country's highest court, the Constitutional Court (ConCourt), in another victorious moment for the country's democracy, ruled that he violated the constitution by not repaying the money (Masondo 2016). Zuma's second term in office was consequently plagued by pervasive criticisms against him that included disruptions of his speeches in parliament, and civil protests demanding his resignation. Ultimately, in a case of the proverbial 'what goes around comes around', Zuma suffered the same humiliation he inflicted on his predecessor. He was coerced by his own political party to resign as president of the country in 2018 following a hotly contested ANC presidency race, narrowly won by Cyril Ramaphosa in 2017 (Burke 2018).

## The “new dawn”

Cyril Ramaphosa’s ‘new dawn’ presidency, which promised to crackdown on corruption, has seen South Africa’s democratic rule being put to the ultimate test. His narrow win of the ANC presidency against Zuma’s former wife, Nkosazana Dlamini-Zuma, proved to be the beginning of another titanic factional battle inside the ruling party between him and Zuma’s supporters. As witnesses at the Zondo Commission exposed extensive and unbridled corruption during Zuma’s presidency, his allies began fighting back against what they saw as a purge against them (Friedman 2020). Emboldened, Zuma snubbed the commission when he was due to appear for the second time and even defied the Concourt’s order to appear, claiming a biased and politicised legal process. But in a historic moment for South Africa, the Concourt judges were undeterred by threats from Zuma’s supporters. They found Zuma guilty of contempt of court and slapped him with a 15-month imprisonment (Calland 2021), to the fury of his supporters. Zuma’s allies retaliated by instigating the worst civil unrest in post-apartheid South African history, which saw the burning and looting of shopping malls, warehouses and freight trucks and the deaths of more than 340 people in KwaZulu-Natal and Gauteng provinces (Davis, Nicolson & Simelane 2021). The unrest further damaged the country’s global image and its already ailing economy. It also exposed the state’s feeble national security defence capabilities as media images showed looters in broad daylight brazenly pillaging and ransacking malls and shops in front of an overwhelmed police.

Simultaneously, Ramaphosa’s government has been grappling with the global coronavirus pandemic (COVID-19) that has so far killed more than 4,8 million people across the world (JHU 2021) and devastated the global economy. In South Africa, more than 88 000 people have died (DOH 2021), and millions have lost their jobs due to economically restrictive measures to contain the virus (Posel, Oyenubi & Kollamparambil 2021: 2). Adding fuel to the fire were reports in the media about rampant government corruption related to measures to address the pandemic in the country, costing billions of rands (Heywood 2021). Investigations by the state’s Special Investigating Unit (SIU) have implicated high-level officials in several provinces, including Ramaphosa’s former spokesperson and the Minister of Health (Myburgh 2021). While some of those implicated have been arrested, their fate is yet to be decided by the courts.

The ANC-led government has therefore been under tremendous pressure to address not only corruption but also the resultant poor service delivery, particularly as the ruling party faces a competitive 2021 local government elections with a record number of independent candidates contesting (Davis 2021). There is also the Political Party Funding law signed in early 2021, which has enhanced transparency as it compels political parties to disclose donations of more than R100 000 (The Presidency, RSA 2021). Despite the challenges, these developments indicate a strengthened and thriving democracy in South Africa, which will likely prevail in promoting good governance for the foreseeable future.

## Conclusion

South Africa's democracy is evidently far from perfect, but the effects of the ANC's factional battles have put it to the test, thereby demonstrating its resilience and relative effectiveness in holding officials to account and promoting good governance. Although Zuma served less than two months in prison for his contempt of court, the historic ConCourt ruling and arrest of such a high-level political leader proved the legitimacy and effectiveness of the country's constitutional institutions. Importantly, it also dealt a major blow to the Zuma faction inside the governing party as some of the instigators of the unrest have been arrested and are facing court trials, while other senior leaders affiliated with Zuma have lost credibility. The importance of this is that a stable governing party will stand a better chance of running the government within its constitutional democratic confines and goals.

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