

Chapter 1

Consolidating Democracy and Governance in South Africa

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Introduction

Over the past 25 years, authoritarian regimes of various sorts have crumbled worldwide to give way to liberal constitutional democracies. However, regular free and fair elections through which political parties can exercise legitimate authority and citizens obtain protection by the rule of law are a prerequisite for the consolidation of the new democracies. In turn, participation in regular free and fair elections requires a robust civil society that is keen to protect individual freedoms and equality before the law as well as preserve a plurality of interests and rich associational life (Budge & McKay, 1994; Dahl, 1998; Linz & Stepan, 1996; Rebehn, 1999).

The 1994 election in South Africa ushered in a new democracy, delivering not only a universal right to vote but also formal equality before the law, avenues for citizen participation in governance and statutory institutions buttressing democracy. The second democratic election in 1999 took place amidst large-scale societal transformation and reform and presented the first major opportunity to measure the extent of the consolidation of democracy and governance in South Africa. The first year of the second democratic government also provides us with an opportunity to compare and examine policy and delivery shifts between the Mandela and Mbeki eras (Johnson & Schlemmer, 1996; Southall, 1999).

Pillars of Democracy

The sustainability of democratic systems cannot be taken for granted. Robert Dahl points out that the number of democracies increased from 21 in 1950 to 51 in 1996, and that 30 countries achieved democratic status between 1993 and 1996. However, between 1900 and 1985, non-democratic regimes replaced democratic regimes 52 times (Dahl, 1998; Benhabib, 1996).

The fledgling democracy of South Africa has delivered the franchise to the disenfranchised majority. It also put in place the following key pillars of democratic consolidation:

- A functioning multi-party parliamentary system with election processes that are considered to be procedural and substantially free and fair.
- A strong sense of constitutionalism and the rule of law, supported by various institutions buttressing democracy, including the Constitutional Court, the Human Rights Commission, the Commission for Gender Equality, the Office of the Auditor-General, the Public Service Commission, and the Public Protector.
- Mechanisms of accountability, such as the Access to Information Act, which enshrine the right to public information, force government to be transparent and expose acts of corruption among public officials. The Constitution moreover enshrines the values of good governance and sound administration in public affairs.
- A professional civil service functioning on the basis of constitutional values, including impartiality, dedicated service delivery and fiscal accountability.
- Mechanisms for citizen participation in government, including public hearings of parliamentary committees and public participation in policy making.
- An integrated and highly developed economic infrastructure with considerable potential for economic prosperity.

Civil Society and Democracy

A robust civil society is a clear indicator of a strong democracy (McDonough, Shin & Moisés, 1998). Debates over the last decade have created polar, at times antagonistic, relations between the state and civil society. Emanating from the neo-Gramscian literature of the 1980s, the state was perceived as a “hegemony protected by the armour of coercion”, whereas civil society was perceived as the bearer of democratisation and the agent of setting limits on state power. Hence a robust civil society came to constitute an essential pillar of a mature liberal democracy. Moreover, civil society organisations have come to be viewed as the representatives of diverse and sectoral interest groups, widening access to and public participation in public institutions and processes (Muthien & Olivier, 1999; Markoff, 1997; Sagasti et al., 1997; Liebenberg, 1997).

Current debates stress the importance of robust institutions of civil society in generating good governance and economic growth. The social constructionist view asks not only about the nature of the state but also about class, development and societal context, as well as the fabric of civic culture and state-civil society relations (Putman, 1993; Evans, 1995; Tandler, 1997; Samatar, 1999).

The nexus of state-civil society relations can be graphically demonstrated as follows:



The election to power of South Africa's first democratic government in 1994 had significant implications for not only state-civil society relations, but also for civil society itself. Informed by the social movement literature, the expectation was that civil society would enter a period of demobilisation after the institution of democracy and that the high levels of political mobilisation that characterised much of the 1980s and early 1990s would dissipate.

The Democracy and Governance Research Programme on Social Movements of the Human Sciences Research Council (HSRC) conducted a number of annual surveys since March 1994, in order to trace trends in organisational involvement. The five surveys to date were conducted at the same time of the year among a countrywide sample of about 2 200 respondents (Muthien & Olivier, 1999). Membership (i.e. *active membership* and/or holding an *office-bearer* position) of a range of organisations, including political parties, civic associations, trade unions, women's organisations and stokvels (stokvels are savings clubs where members rotate access to the money among its members on say a monthly basis) was examined (White, 1998; Muthien & Olivier, 1999). A number of trends were evident.

Membership of political parties decreased significantly since the run-up to the 1994 founding election. At the time about one-fifth of the respondents were active members of a political party. This proportion decreased to one-tenth by March 1998. The most active political party membership was found among African respondents (24%), followed by whites (17%) and then coloureds and Indians (about 5% each). The downward trend in active party membership since then clearly suggests overall disengagement from active political involvement. This was most evident among the whites where active membership decreased from 17% in 1994 to 4% in 1998, which can be explained by the loss of political power and the lack of a viable opposition. Active membership among African respondents decreased from its high 24% in 1994 to 13% in 1998.

The new government inevitably drew the leadership of civil society organisations into its ranks. Despite this depletion, though, there was an increase in participation in women's organisations, youth organisations

and civic organisations. Stokvels/savings societies showed a significant increase in participation, which points to the emergence of an entrepreneurial spirit in black communities. Membership in those organisations most active during the struggle for democracy, i.e. trade unions and civic organisations, remained fairly constant between 1994 and 1998. The results clearly suggest that there has not been a decline in civil society participation since 1994, but that involvement has come to be channelled differently.

The results of analyses of the extent to which supporters of political parties, trade unions and civic organisations were prepared to engage in protest activities to advance their concerns are revealing. First, the supporters of political parties and trade unions were less prepared to engage in protest activities than supporters of, for example, civic organisations. Second, active members of these three organisations were much more prepared to engage in protest activities than active members of other organisations (Roefs, Klandermans & Olivier, 1998). Overall, organisational involvement seems to have become an important factor in mobilising people to protest against pressing social problems.

Another important indicator of democratic consolidation is the measure of trust in civil society institutions (see Chapter 4). The results of HSRC surveys reveal that trust in civil society institutions, including churches, the media, business and civic associations, was generally high. Trade unions and political parties fared less well, as did the courts and police; the defence force fared slightly better. Trust in the Independent Electoral Commission to deliver free and fair elections was quite high in the run-up to the 1999 election.

Transforming State and Society

Given the legacy of repression and discrimination, systematic destruction of black family life and social capital, and the distorted nature of service delivery and societal structures under colonialism and apartheid, the democratic state faced a formidable challenge to not only establish new democratic forms of governance, but fundamentally transform society. The centrality of the role of the state in social transformation was articulated by

the then Deputy President, Thabo Mbeki, in his address to the ANC Youth League Congress in 1996:

We consider the attainment of political democracy as a precondition for the continuing struggle aimed at the achievement of full social [and] economic emancipation for all the people. Commendable progress is already being made in putting building blocks aimed at ensuring the democratisation of the political order, the deracialisation and rebuilding of the economy, the public service, security organs of state, social services and cultural institutions. The success of our policy of reconciliation, national unity and nation-building also depends on the progress we make in addressing the political and socio-economic divisions in the conditions of life of the people.

A key feature of this transformative agenda is the delivery of substantive political and economic democracy (Khosa, 2000). This agenda was captured in the Reconstruction and Development Programme (RDP), aimed at not only transforming or democratising state and society, but also on substantially improving the material well-being of the majority of the population. This programme would entail large-scale infrastructural investment and development, community-based public works job creation, the expansion of social security investment and expenditure, and improved service delivery to the poor. The programme would however lead to public debt escalation amidst a drive to reduce the size of the civil service. In addition, the RDP Office, created as a “super ministry” in the President’s Office, did not realise the aim of policy implementation. Hence the RDP Office was abolished and a new policy framework premised on neo-liberal economic assumptions was operationalised (Bond & Khosa, 1999).

The new macro-economic policy framework, the Growth, Employment and Redistribution (GEAR) policy, emphasises the redistributive thrust of the reprioritisation of government expenditure and the role of social and sectoral policies in meeting basic needs, improving services available to the poor, and building social infrastructure. It stresses that growth needs to be translated into redistribution of incomes and opportunities through appro-

appropriate social development policies and programmes, and deliberate promotion of employment creation. GEAR envisages increased state expenditure on infrastructure as an enhancer of growth. Privatisation is seen as a means of reducing debt. At the same time, the government must play a central redistributive role through land reform and the provision of basic social services.

Instituting a New Culture of Governance

The new “paradigm” of governance in international literature underscores the challenge facing the new democratic government of South Africa: Traditional notions of state administration and reform have to be replaced with governance that makes provision for the following:

- multi-agency networks and partnerships,
- interdependence between centres and networks of power,
- the emergence of self-governing networks or clusters,
- the development of new governmental cultures and procedures, and
- public-private sector co-operation and partnerships (Stoker, 1998).

The re-establishment of the rule of law and a culture of constitutionalism in South Africa provided the parameters for a change in organisational culture and behaviour in public administration in South Africa. The new Constitution demands transparency, public accountability and impartiality in service delivery. It has also created new avenues for citizen participation and public scrutiny of the way the country is being governed. The increasing recognition of the interdependence between state and civil society and the establishment of an independent civil society in the new “paradigm” of governance is aptly captured by Dahrendorf (cited in CAPAM, 1995, p. 21):

[I]nstitutions which are autonomous in that they are not State-run, are not subject to the whims of kings and tyrants, but are sustained by citizens endowed with rights and the wherewithal to make use of them.

Governance in Transition

The 1990s produced widespread political and economic transitions across continents, which augured in an era of bold experimentation and innovation in public sector reform. A new “paradigm”, namely that of “government in transition”, was introduced in the Commonwealth. Global political changes and socio-economic pressures posed similar challenges to developing and developed countries.

The South African experiment provided a new benchmark for studies of governance in transition. The historic settlement and compromise reached at the multi-party negotiations not only pulled back the country from the brink of civil war, but produced innovative forms of power sharing and limits to majoritarian rule. These compromises included:

- the formation of a Government of National Unity in 1994, which enabled co-responsibility for governance between minority and majority parties,
- a “sunset clause”, which provided continuity and stability through job security for the “old guard”,
- proportional representation, which provided for better representation of “minority parties”,
- the introduction of a new system of co-operative governance between the national, provincial and local tiers of government, and
- an extensive array of institutions for checking on the arbitrary use of political authority.

New Policy Agenda

An important feature of transformation during the first term of office of the democratic state was the democratisation of public policy making. The new political environment introduced a variety of new processes and practices that differed radically from those that marked policy making during the apartheid era. In particular, the previously semi-secretive, technocratic, authoritarian mode of policy making was replaced by a more public and accountable policy making.

Perhaps the most significant example of this new political culture was the Constitutional Assembly Project (CAP), which aimed to draw civil society into constitution writing. Underlying the CAP was the culture of popular participation and public consultation that characterised the Mass Democratic Movement (MDM). The CAP empowered institutions and community organisations outside of the state to participate in decision making. The aim of the CAP was to make constitution writing as inclusive as possible. This was done in a number of ways.

Six theme committees were set up by the Constitutional Assembly to collate and consider submissions from a wide variety of stakeholders, including organs of civil society, ordinary individuals, political parties and all those who had an interest in contributing to the new Constitution. Popular participation in constitution writing was made possible by encouraging the citizenry to make submissions in their own languages, resulting in some 2,5 million written submissions. These were supplemented by thousands of public meetings in almost every town and village to give people an opportunity to express their views on what should be included in the new Constitution. People were encouraged to attend these meetings through advertisements on television and radio. Popular awareness of the issues involved was further raised by the distribution of a regular newspaper, *Constitutional Talk*, a television talk show by the same name, and numerous radio programmes dealing with the constitution-making process.

This new policy-making approach created opportunities for a greater and more active role by civil society in governance. It also provided the drive for the transformation of state-civil society relations. The creation of the new democratic state, which was more inclusive and more responsive to the needs of the previously excluded majority, required a fundamental overhaul of all policy and implementation frameworks for service delivery. The African National Congress (ANC) also took office armed with a basket of new policy initiatives, contained in the RDP, which in itself was developed through constituency inputs and consultation. Hence policy making in the new government became open to mass public input, thus introducing participatory democracy, accountability and transparency. For instance, government ministries held conferences and workshops to

include a wide variety of stakeholders in discussions on specific policy issues. In addition, they invited and considered written submissions to Green and White Papers, held public hearings and encouraged the public to interact with parliamentary committees.

Public Accountability

A central feature of the new culture of governance consists of an array of constitutional checks on public authority. Public accountability forms the foundation of good governance and sound public administration. James Madison (cited in Schwella, 1991) captured the rationale for democratic accountability:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government, which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

Accountability is embedded in the system of liberal democracy, premised on the election of public representatives, the separation of the legislative, executive and judiciary powers, the upholding of the rule of law through an independent judiciary and a prevailing system of constitutionalism. Moreover, accountability is exercised through a complex system of institutional checks and balances that limit political authority. The sustainability of democracies can in part be tested against the strength of their institutions of accountability.

In a system of parliamentary democracy, the legislature constitutes the supreme authority, as its members are the elected representatives of “the people”. The executive derives its authority from the legislature and is accountable to the legislature for its actions. As the law-making authority, the legislature assumes the role of final arbiter of government policy and has the task of balancing the diverse interests of the broader society. The effectiveness of the legislature to hold government accountable depends

on the quality of the elected representatives in terms of professional expertise and direct accountability to constituencies. Specialised committees, e.g. select committees on public accounts and finance, the holding of open public hearings and allowing the public to attend the proceedings of parliamentary committees, as well as the provision of research support, enhance the capacity of the legislature to scrutinise government accountability.

The South African Constitution has enshrined an elaborate array of institutions that support constitutional democracy through monitoring political and administrative authority. These include the Public Protector, the Auditor-General, the Public Service Commission, the Human Rights Commission, the Commission for Gender Equality, the Independent Electoral Commission and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. Moreover, the independence and impartiality of these institutions are enshrined with an injunction to be impartial and “perform their functions without fear, favour or prejudice”. Furthermore, “other organs of state...must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions”, and “no person or organ of state may interfere with the functioning of these institutions” (Constitution, 1996). These are indeed a powerful set of protections and quite necessary given South Africa’s history of human rights violations and the rule of law by an oppressive state machine.

Democracy and Governance: Quo Vadis?

The aim of this book is to provide critical appraisals of the evolving pillars of democracy and governance in South Africa since 1994. These appraisals focus on:

- the historical evolution of race and democracy,
- the imperatives of state formation,
- the new culture of governance, including democratic accountability and reform, and public perceptions of governance,
- progress with provincial and local governance,

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- public participation in democratic institutions including the legislature,
- changing patterns of identity formation and the protection of diversity, as well as
- changing profiles of political party support and the emerging electoral geography in South Africa.

Chapter 2 examines the historical roots of the racial order and their implications for democracy in post-apartheid South Africa. Professor Bernard Magubane traces racial prejudice to the colonial order and the construction of an oppressive and exploitative state founded on cheap labour, disenfranchisement and the systematic destruction of black family life and social capital in South Africa before 1994. However, the “miracle” of the subsequent creation of an inclusive democratic order premised on the protection of human rights and the restoration of the human dignity of the individual poses a challenge—to decode the complexities and reverse the deeply entrenched patterns of domination and subordination.

In Chapter 3, Gregory Houston and Yvonne Muthien examine the evolution of the state in South Africa (the pre-colonial order (before 1652), the colonial order (1652-1909), the segregationist order (1910-1947), the apartheid order (1948-1993) and the new democratic order (1994-)). Against this background they examine the twin imperatives of the new state, that is, the programme to transform both state and society and the agenda to establish a developmental state.

Chapter 4 examines the democratisation of the state itself. In this chapter Yvonne Muthien outlines the key challenges of establishing public accountability through the creation of multiple institutions that “buttress democracy” and limit political authority. The chapter includes an assessment of the capacity of the legislature to hold the executive accountable and the ability of statutory bodies to place limits on the arbitrary exercise of political power. The chapter illustrates the democratisation of the state by means of a case study of the transformation of the Public Service Commission in the Mandela era.

Thabo Rapoo examines—in Chapter 5—the establishment of a new system of provincial governance in South Africa, including the institutional forms created to give expression to the devolution of power to different tiers of government and the establishment of new forms of intergovernmental relations through a system of co-operative governance.

Chapter 6 presents an overview by Eddy Maloka of the establishment of the new Gauteng Provincial Legislature. It offers an insider view with sober reflections on the institutional and political complexities of establishing a second tier government.

Doreen Atkinson provides—in Chapter 7—a critical assessment of local government in intergovernmental relations, focusing on the case of the Northern Cape. The Northern Cape province is one of the new jurisdictions created by the 1993 Interim Constitution. Atkinson concludes that local government in the Northern Cape has survived a difficult time and may face problems in sustaining effective local governance.

In Chapter 8, Abebe Zegeye, Ian Liebenberg and Gregory Houston pose insightful propositions in examining social identity patterns during the period of nation building. They also analyse various trends in identity formation in post-apartheid South Africa.

Chapter 9 presents an examination by Meshack Khosa of the difficulties and challenges of protecting diversity in a heterogeneous society with a legacy of polarisation, often characterised by violent conflict. This chapter contains an overview and analysis of debates leading up to the second national Consultative Conference (1999) on the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

The culture of governance and legitimacy is critically appraised by Meshack Khosa in Chapter 10. The chapter focuses on public perceptions of government performance at national, provincial and local levels by race, province and income. Trust in national, provincial and local government and in civil society institutions is also assessed according to race, province and income. The chapter reveals the shifting patterns of public support for the way in which South Africa was governed from 1994 up to the run-up to the 1999 election.

In Chapter 11, Marlene Roefs and Ian Liebenberg present their preliminary findings on public participation in governance in South Africa. They conclude that communities need to be involved from the beginning to the end in all programmes aimed at public participation, and that communities should not merely act as rubber stamps for law making and governance.

In Chapter 12, Stephen Rule explores the extent to which party support profiles continue to reflect traditional historical cleavages, using the results of a national survey of public opinion conducted during November 1999. Responses to three of the survey questions are analysed to determine feelings of closeness to each political party, intention to vote for that party and reasons for voting for that party in the June 1999 election.

Chapter 13 offers an examination by Stephen Rule of the regional differences in public opinion about government priorities and economic performance during the months prior to the 1999 election. The chapter highlights the regional differentiation in levels of voter trust in and satisfaction with the national government and the resultant variations in support given to the ANC in the election.

Finally, in Chapter 14, the editors assess the progress and problems with consolidating democracy and establishing new forms of governance in South Africa. The chapter revisits a number of critical issues outlined in the introductory chapter, rather than presenting a comprehensive score card of achievements and failures.

Overall, this publication is an attempt to draw together recent research and appraisals of aspects of South Africa's transition, notably an examination of the establishment of new forms of democracy and governance in post-apartheid South Africa, including state formation, public accountability, deracialisation of the state, co-operative governance, shifting social identities and diversity, and the electoral geography and political outcomes. The book does not claim to be exhaustive in respect of the issues it covers. It is, however, a showcase of some of South Africa's new talent of young and emerging researchers, many of whom write from an experiential insider/participant perspective on the processes and institutions that they analyse.

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